JS 44 (Rev. 12/12)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS

Certa ProPainters, Ltd, Inc. a/k/a Certa ProPainters, Ltd.

(b) County of Residence of First Listed Plaintiff Montgomory County, PA
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
F. Joseph Dunn, Fisher Zucker LLC, 21 South 21st Street, Philadelphia, PA 19103, (215) 825-3100

DEFENDANTS

Jonathan A. Kish

County of Residence of First Listed Defendant Seminole County, Florida
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*
C. Gene Shipley, GrayRobinson, P.A., P.O. Box 3068, Orlando, Florida 32802-3068, (407) 843-8880

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question *(U.S. Government Not a Party)*
- ☐ 2 U.S. Government Defendant
- ☒ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*

(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☒ 4	☐ 4
Citizen of Another State	☐ 2	☒ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☒ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District *(specify)* ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (***Do not cite jurisdictional statutes unless diversity***):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND $ 250,000.00

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE ____________ DOCKET NUMBER ____________

DATE 8/20/14

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # ______ AMOUNT ______ APPLYING IFP ______ JUDGE ______ MAG. JUDGE ______

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

Certa ProPainters, Ltd, Inc. a/k/a Certa ProPainters, Ltd. : CIVIL ACTION

v. :

Jonathan A. Kish : NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

(a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )

(b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )

(c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )

(d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )

(e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )

(f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

8/20/14	F. Joseph Dunn	Certa ProPainters, Ltd, Inc.
Date	**Attorney-at-law**	**Attorney for**
(215) 825-3100	(215) 825-3101	jdunn@fisherzucker.com
Telephone	**FAX Number**	**E-Mail Address**

(Civ. 660) 10/02

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 150 Green Tree Rd, Suite 1003, Oaks, PA 19456

Address of Defendant: 2135 Kimberwicke Circle, Oviedo, FL 32765

Place of Accident, Incident or Transaction: PA

(*Use Reverse Side For Additional Space*)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes ☒ No ☐

Does this case involve multidistrict litigation possibilities? Yes ☐ No ☒

RELATED CASE, IF ANY:
Case Number: ________ Judge ________ Date Terminated: ________

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☒

CIVIL: (Place ✔ in ONE CATEGORY ONLY)

A. *Federal Question Cases*:
1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
(Please specify) ________

B. *Diversity Jurisdiction Cases*:
1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☒ All other Diversity Cases
(Please specify) Franchise

ARBITRATION CERTIFICATION

(*Check Appropriate Category*)

I, F. Joseph Dunn, counsel of record do hereby certify:

☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of $150,000.00 exclusive of interest and costs;

☒ Relief other than monetary damages is sought.

DATE: 8/20/14 ____[signature]____ 76175
Attorney-at-Law Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 8/20/14 ____[signature]____ 76175
Attorney-at-Law Attorney I.D.#

CIV. 609 (5/2012)

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 150 Green Tree Rd, Suite 1003, Oaks, PA 19456

Address of Defendant: 2135 Kimberwicke Circle, Oviedo, FL 32765

Place of Accident, Incident or Transaction: PA

(*Use Reverse Side For Additional Space*)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes ☒ No ☐

Does this case involve multidistrict litigation possibilities? Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: ______ Judge ______ Date Terminated: ______

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
   Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
   Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
   Yes ☐ No ☒

CIVIL: (Place ✔ in ONE CATEGORY ONLY)

A. *Federal Question Cases*:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
    (Please specify) ______

B. *Diversity Jurisdiction Cases*:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☒ All other Diversity Cases
   (Please specify) Franchise

ARBITRATION CERTIFICATION

(*Check Appropriate Category*)

I, F. Joseph Dunn, counsel of record do hereby certify:

☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of $150,000.00 exclusive of interest and costs;

☒ Relief other than monetary damages is sought.

DATE: 8/20/14 [signature] Attorney-at-Law 76175 Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 8/20/14 [signature] Attorney-at-Law 76175 Attorney I.D.#

CIV. 609 (5/2012)

APPENDIX G

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

Certa ProPainters, Ltd, Inc
a/k/a Certa ProPainters, Ltd :

V. : Civil Action No: ______________

Jonathan A. Kish :

DISCLOSURE STATEMENT FORM

Please check one box:

☐ The nongovernmental corporate party, ______________________, in the above listed civil action does not have any parent corporation and publicly held corporation that owns 10% or more of its stock.

☒ The nongovernmental corporate party, Certa ProPainters, Ltd, Inc. a/k/a Certa ProPainters, Ltd, in the above listed civil action has the following parent corporation(s) and publicly held corporation(s) that owns 10% or more of its stock:

First Service Corporation

8/20/14
Date

[signature]
Signature

Counsel for: Certa ProPainters, Ltd, Inc., a/k/a Certa ProPainters, Ltd.

Federal Rule of Civil Procedure 7.1 Disclosure Statement

(a) WHO MUST FILE; CONTENTS. A nongovernmental corporate party must file two copies of a disclosure statement that:

(1) identifies any parent corporation and any publicly held corporation owning10% or more of its stock; or

(2) states that there is no such corporation.

(b) TIME TO FILE; SUPPLEMENTAL FILING. A party must:

(1) file the disclosure statement with its first appearance, pleading, petition, motion, response, or other request addressed to the court; and

(2) promptly file a supplemental statement if any required information changes.

APPENDIX G

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

Certa ProPainters, Ltd, Inc.
a/k/a Certa ProPainters, Ltd :
:
V. : Civil Action
: No: ________________
Jonathan A. Kish :

DISCLOSURE STATEMENT FORM

Please check one box:

☐ The nongovernmental corporate party, ______________________________, in the above listed civil action does not have any parent corporation and publicly held corporation that owns 10% or more of its stock.

☒ The nongovernmental corporate party, Certa ProPainters, Ltd, Inc. a/k/a Certa ProPainters, Ltd, in the above listed civil action has the following parent corporation(s) and publicly held corporation(s) that owns 10% or more of its stock:

First Service Corporation
____
____
____

8/20/14 [signature]
Date Signature

Counsel for: Certa ProPainters, Ltd, Inc., a/k/a Certa ProPainters, Ltd.

Federal Rule of Civil Procedure 7.1 Disclosure Statement

(a) WHO MUST FILE; CONTENTS. A nongovernmental corporate party must file two copies of a disclosure statement that:

(1) identifies any parent corporation and any publicly held corporation owning10% or more of its stock; or

(2) states that there is no such corporation.

(b) TIME TO FILE; SUPPLEMENTAL FILING. A party must:

(1) file the disclosure statement with its first appearance, pleading, petition, motion, response, or other request addressed to the court; and

(2) promptly file a supplemental statement if any required information changes.

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CERTA PRO PAINTERS, LTD., INC., a/k/a CERTA PROPAINTERS, LTD.
150 Green Tree Road, Suite 1003
Oaks, Pennsylvania 19456

Plaintiff,

v.

JONATHAN A. KISH
2135 Kimberwicke Circle
Oviedo, Florida 32765

Defendant.

CIVIL ACTION

No.

COMPLAINT

PARTIES

1. Plaintiff Certa ProPainters, Ltd., Inc., a/k/a Certa ProPainters, Ltd. ("CertaPro") is a Massachusetts corporation with its principal place of business at 150 Green Tree Road, Suite 1003, Oaks, Pennsylvania 19456. CertaPro is registered in Florida under the corporate name Certa ProPainters, Ltd., Inc. but otherwise conducts business as Certa ProPainters, Ltd.

2. Defendant Jonathan A. Kish ("Kish") is an adult individual with an address at 2135 Kimberwicke Circle, Oviedo, Florida 32765.

JURISDICTION AND VENUE

3. This Court has jurisdiction over the parties and subject matter in this civil action pursuant to 28 U.S.C. §1332(a) in that the parties are citizens of different states and the matter in controversy exceeds the sum of $75,000, exclusive of interest and costs.

4. Venue for this action is predicated upon 28 U.S.C. §1391(b) as this is the judicial district in which a substantial part of the events or alleged omissions giving rise to the claims occurred.

5. Jurisdiction and venue are proper in this judicial district pursuant to the mandatory forum and venue selection clause contained at Section 18.5 of the Franchise Agreement, which is a subject matter of this dispute. A true and accurate copy of the Franchise Agreement is attached as "Exhibit A."

FACTUAL BACKGROUND

The CertaPro Franchise System and Marks

6. CertaPro is the national franchisor of CertaPro franchises which offer residential painting and decorating services, as well as commercial services.

7. CertaPro owns the mark "CertaPro" and "CertaPro Painters" which are registered on the Principal Register of the USPTO at Registration Nos. 3,570,002 and 3,570,003. CertaPro also owns numerous other marks, all of which are registered on the Principal Register of the United States Patent and Trademark Office ("USPTO") (the "Proprietary Marks").

8. CertaPro has continuously used and advertised the Proprietary Marks throughout the country.

9. As of December 31, 2013, CertaPro had 328 franchised outlets nationwide.

10. CertaPro franchisees are licensed to use the Proprietary Marks and operate under CertaPro's business system pursuant to the terms and conditions of a CertaPro franchise agreement, entered into between CertaPro and each franchisee.

11. Under each franchise agreement, CertaPro franchisees are required to follow CertaPro's standards and specifications and devote their best efforts to operating the franchised business.

Disclosure of Kish With CertaPro's Franchise Disclosure Document

12. On July 9, 2013, Kish was disclosed with and acknowledged receipt of CertaPro's then current franchise disclosure document ("FDD").

13. Thereafter, Kish was disclosed with and acknowledged receipt of an updated FDD dated July 2013.

The Parties' Rights and Obligations Under the Franchise Agreement

14. On July 18, 2013, CertaPro provided Kish with a complete copy of the Franchise Agreement for Winter Park, FL (the "Territory").

15. On August 14, 2013, Kish executed a compliance certification (the "Compliance Certification"), pursuant to which Kish verified that no "employee or other person speaking on behalf of [CertaPro] made any statement or promise . . . that is different from or inconsistent with the information contained in the FDD."

16. Kish also stated that he had discussed the franchise agreement with a lawyer.

17. On August 2, 2013, CertaPro provided Kish with a Zip Code Purchase Agreement (the "Zip Code Agreement") for one additional zip code for $3,700 and advised Kish not to sign the Zip Code Agreement until he signed the Franchise Agreement.

18. Thereafter, on August 16, 2013, Kish and CertaPro executed the Franchise Agreement and Zip Code Agreement. Pursuant to the Franchise Agreement, Kish was granted the right and undertook the obligation to operate a CertaPro franchise in the zip codes identified as the Winter Park, FL Territory for a period of ten years ("Term").

19. Pursuant to the terms of the Franchise Agreement, Kish is required to pay minimum royalties for the Term of the Agreement in excess of $250,000.

20. Subsequently, on December 12, 2013, CertaPro and Kish entered into a Commercial Services Addendum which permits Kish to provide commercial services during the Term, anywhere in the United States.

21. Section 19.20 of the Franchise Agreement states:

> Entire Agreement. This Agreement and the documents incorporated herein by reference constitute the entire agreement between the parties and supersede all previous agreements and understandings between the parties in any way relating to the subject matter of this Agreement; provided, however, nothing herein is intended to disclaim the representations made in the Franchise Disclosure Documents provided to [Kish].

See Exhibit A.

22. Pursuant to Section 18.9 of the Franchise Agreement, "[i]f either party institutes any judicial or arbitration proceeding to enforce any monetary or non-monetary obligations or to interpret the terms of this Agreement, the prevailing party shall, upon final judgment, be entitled to recover all costs, including reasonable attorneys' fees, incurred with such proceeding." Id.

23. Pursuant to Section 20.1.1 of the Franchise Agreement Kish:

> [A]cknowledge[d] that [he] conducted an independent investigation of the CertaPro Business and recognize[s] that the business venture contemplated by the [Franchise Agreement] involves business risks and that its success will be largely dependent upon the ability of Franchisee as an independent business person. CertaPro expressly disclaims the making of and [Kish] acknowledge[s] that [he has] not received any warranty or guarantee, expressed or implicit, as to the potential volume, profit, cash flow or success of the CertaPro Business.

Kish's Allegations and Demands

24. On May 12, 2014, CertaPro received a letter from Kish dated May 9, 2014, asserting various claims including misrepresentations related to former CertaPro franchisees operating in the Territory, complaints regarding CertaPro's failure to provide marketing, advertising and business assistance and the grant by CertaPro of a license to another franchisee to operate in a territory adjacent to Kish's Territory.

25. CertaPro responded on June 12, 2014, and denied Kish's allegations.

26. Kish responded on June 20, 2014, and affirmed the statements contained in his May 9, 2014, letter.

27. Kish has alleged claims of breach of contract, breach of the implied covenant of good faith and fair dealing, violation of the Florida Franchise Act, as well as allegations of fraud, fraud in the inducement and negligent misrepresentation and is challenging the validity of the Franchise Agreement.

28. Kish has asserted damages in excess of $100,000.

COUNT I

DECLARATORY JUDGMENT THAT THE FLORIDA FRANCHISE ACT DOES NOT APPLY OR, IN THE ALTERNATIVE, THAT CERTAPRO IS NOT IN VIOLATION OF FLORIDA FRANCHISE ACT.

29. CertaPro incorporates the averments contained in paragraphs 1 through 28 as if fully set forth in this paragraph.

30. CertaPro seeks a declaration that, as a matter of law, that the Florida Franchise Act ("FFA") is not applicable to the parties' relationship or, in the alternative, that CertaPro is not in violation of the FFA.

31. Kish alleges that CertaPro violated the FFA and otherwise breached its legal obligations, rendering the Franchise Agreement unenforceable.

32. There is definite and concrete dispute, touching the legal relations of parties having adverse legal interests, which are real and substantial.

33. CertaPro has a real, tangible and protected interest in the Franchise Agreement.

34. Kish's claims cannot be sustained because the Franchise Agreement contains a choice-of-law provision at Section 19.10, which designates Pennsylvania law as the law governing disputes relating to the construction and interpretation of the Franchise Agreement. See Exhibit A.

35. Although Kish may allege fraud, fraud in the inducement and negligent misrepresentation against CertaPro, there is no evidence that such allegations are in regard to the choice-of-law provision.

36. Kish's claim under the FFA must also fail because the facts do not support an FFA claim. Specifically, the FFA makes it unlawful to, in connection with the sale of a franchise:

a. Intentionally to misrepresent the prospects or chances for success of a proposed or existing franchise or distributorship;
b. Intentionally to misrepresent, by failure to disclose or otherwise, the known required total investment for such franchise or distributorship; or
c. Intentionally to misrepresent or fail to disclose efforts to sell or establish more franchises or distributorships than is reasonable to expect the market or market area for the particular franchise or distributorship to sustain.

Fla. Stat. Ann. § 817.416 (West).

37. Kish does not allege that CertaPro made any of the misrepresentations set forth in paragraph 36.

38. Section 20.1.1 of the Franchise Agreement expressly disclaims any representations regarding the success of the franchised business. See Exhibit A.

WHEREFORE, CertaPro demands a declaratory judgment that, as a matter of law, the FFA does not apply to the parties' relationship or, alternatively, that CertaPro is not in violation of the FFA, and demands its attorneys' fees and costs and such other relief as the Court deems proper.

COUNT II

DECLARATORY JUDGMENT THAT CERTAPRO IS NOT IN BREACH OF ITS OBLIGATIONS UNDER THE FRANCHISE AGREEMENT AND THAT THE FRANCHISE AGREEMENT IS IN FULL FORCE AND EFFECT

39. CertaPro incorporates the averments contained in paragraphs 1 through 38 as if fully set forth in this paragraph.

40. CertaPro seeks a declaration that CertaPro is not in breach of its obligations under the Franchise Agreement and that the Franchise Agreement remains in in full force and effect.

41. At all times referred to herein, CertaPro was in compliance with the Franchise Agreement and had fulfilled all of its obligations pursuant to the terms and conditions thereof.

42. Kish alleges that the Franchise Agreement is unenforceable due to fraud, fraud in the inducement and negligent misrepresentation.

43. There is definite and concrete dispute, touching the legal relations of parties having adverse legal interests, which are real and substantial.

44. CertaPro has a real, tangible and protected interest in the Franchise Agreement.

WHEREFORE, CertaPro demands a declaratory judgment that, as a matter of law, CertaPro is not in breach of its obligations under the Franchise Agreement and that the

Franchise Agreement remains in in full force and effect, and demands its attorneys' fees and costs and such other relief as the Court deems proper.

FISHER ZUCKER, LLC

Date: August 20, 2014

By: ______________________

F. Joseph Dunn
21 South 21st Street
Philadelphia, PA 19103
(215) 825-3100
jdunn@fisherzucker.com

Attorneys for Plaintiff, Certa ProPainters, Ltd., Inc., a/k/a Certa ProPainters, Ltd.

EXHIBIT A

CERTA PROPAINTERS, LTD.

FRANCHISE AGREEMENT

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This document may not be reproduced, stored in a retrieval system, or transmitted in whole or in part, in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without the prior consent of Certa ProPainters, Ltd.

"Certa Pro®", "Certa ProPainters®" and "Certa ProPainters and Design" are all registered service marks of Certa ProPainters, Ltd.

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FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT ("Agreement") is made effective as of the date set forth on the signature page of this Agreement ("Effective Date") by and **BETWEEN:**

Certa ProPainters, Ltd.
a Massachusetts corporation
(hereinafter referred to as the
"Franchisor" or "CertaPro")

- and -

Jonathan A. Kish

2135 Kimberwicke Circle

Oviedo, FL 32765
("Franchisee").

BACKGROUND

A. CertaPro has developed a system for the opening, operation and promotion of businesses that provide painting and decorating services (the "CertaPro System") as the same is described in the CertaPro Methods of Operation Manual as amended from time to time (the "Operations Manual");

B. The CertaPro System is identified by certain trade names, trademarks, service marks, logos, copyrights, emblems and other indicia of origin including the service marks "Certa ProPainters" and the CertaPro logo and design as CertaPro now designates and may hereinafter designate in connection with the CertaPro System ("Proprietary Marks").

C. Franchisee desires to own and operate a CertaPro franchise in a manner which is consistent with, and which will promote, CertaPro's reputation, standards of quality and goodwill and CertaPro, in reliance on the representations made by Franchisee, is willing to provide certain training, materials, equipment and supplies and ongoing assistance relating to the CertaPro System and to grant a franchise to Franchisee under the terms and conditions of this Agreement, which terms are acceptable to Franchisee and are acknowledged by the parties to be material and reasonable ("CertaPro Business").

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in further consideration of the mutual covenants, promises, and conditions contained herein, the parties agree as follows:

1 – GRANT OF FRANCHISE

1.1 Grant of Franchise. Subject to the terms and conditions stated in this Agreement, CertaPro hereby grants to Franchisee, and Franchisee herby accepts, a non-exclusive license to operate a CertaPro Business using the CertaPro System and the CertaPro Proprietary Marks in the territory described in Schedule "A" attached hereto ("Territory").

1.2 Exclusivity. Except as provided for in this Agreement, and so long as Franchisee is in substantial compliance with the terms and conditions of this Agreement, CertaPro agrees not to locate another CertaPro franchise within Franchisee's Territory for the duration of this Agreement and any renewals thereof. CertaPro retains the right, among others, to establish and grant others the right to establish CertaPro franchises outside the Territory. Further, Franchisee acknowledges that other franchisees may offer, accept and undertake projects within the Territory as set forth in this Agreement.

1.3 Reservation of Rights. CertaPro retains the right to use the Proprietary Marks in alternative forms of distribution, including but not limited to the sale of goods or materials, including but not limited, paint and painting supplies of any kind including, but not limited, brushes, to or through manufacturers, wholesale outlets, malls, retail stores and individuals, or by mail order, electronic commerce or any other direct sales method, anywhere in the world, including sales from and to locations in the Territory.

1.4 Authorized Services. Subject to the limitations described herein, Franchisee is hereby authorized to offer, sell and perform the following:

1.4.1 Residential Services. Franchisee may offer, sell and perform the following services ("Residential Services") only in the Territory:

1.4.1.1 painting and decorating of the interior or exterior of any one, two, three or four unit residential dwellings including any accessory buildings, garages, sheds, barns and fences which are a part of such buildings;

1.4.1.2 painting and decorating of the interior of individual residential apartments, condominiums or townhouses, but, specifically excluding the exterior of any such structures and any interior or exterior common areas such as hallways, vestibules, or storage areas; and

1.4.1.3 painting and decorating of the interior or exterior of individual business offices, not subject to the National Account Program, provided the total aggregate contract amount of the services Franchisee wishes to perform does not exceed $15,000 for any one particular job.

Franchisee is expressly prohibited from offering, selling or performing any Residential Services in any area outside the Territory.

1.4.2 Commercial Services:

1.4.2.1 Franchisee, upon payment to CertaPro of the then current one time nonrefundable Commercial Services Licensing Fee, execution of CertaPro's Commercial Services Addendum and completion of CertaPro's Commercial Training Program and such other requirements as CertaPro from time to time may require, will be authorized to offer, sell and perform any painting and decorating of the interior or exterior of any building ("Commercial Services Certified") not specifically identified as a Residential Service ("Commercial Services").

1.4.2.2 Franchisee acknowledges and expressly understands and agrees that until such time as Franchisee becomes Commercial Services Certified, Franchisee shall have no right to Commercial Services contracts within the Territory and CertaPro or CertaPro Commercial Services Certified franchisees may perform Commercial Services contracts within the Territory using CertaPro's Proprietary Marks. Franchisee disclaims any compensation or consideration for work performed by others in the Territory pursuant to this section.

1.4.3 Program Services: From time to time, CertaPro may establish certain programs for the benefit of its franchisees and the CertaPro System whereby CertaPro franchisees will be permitted to offer, sell and perform certain painting and/or decorating services ("Program Services") in accordance with the specifications described in any particular program established by CertaPro from time to time.

1.4.3.1 National Accounts.

1.4.3.1.1 The term National Account means any customer which on its own behalf or through agents, franchisees, licensees or other third parties owns, manages, controls or otherwise has responsibility for buildings of any kind or common services in more than one (1) location whose presence is not confined within any one particular franchisee's territory, regardless of the aggregate contract amount of the services to be performed. Any dispute as to whether a particular customer is a National Account shall be determined by CertaPro in its sole discretion and CertaPro's determination shall be final and binding.

1.4.3.1.2 CertaPro shall have the exclusive right, unless otherwise specifically delegated in writing, on behalf of itself, Franchisee, and/or other CertaPro franchisees using the Proprietary Marks, to negotiate and enter into agreements or approve forms of agreement to provide services to National Account customers, including any affiliate, company owned or franchised locations within the Territory.

1.4.3.1.3 CertaPro also shall have the right, exercisable in its sole discretion, to:

(a) provide, directly or through any other licensee or franchisee using the CertaPro Proprietary Marks, services to the National Account customer location(s) within the Territory on the terms and conditions contained in the National Account bid or contract; and/or

(b) contract with another party to provide such services to the National Account customer location(s) within the Territory on the terms and conditions contained in the National Account bid or contract between CertaPro and the National Account customer, using the Certa Proprietary Marks or any other trademarks, service marks or trade names.

1.4.3.1.4 Neither the direct provision by CertaPro (or a franchisee, licensee, or agent of CertaPro) of services to National Account customers as authorized in Section 1.4.3.1.3 (a) above, nor CertaPro's contracting with another party to provide such services as authorized in Section 1.4.3.1.3 (b) above, shall constitute a violation of Article 1, Section 1.2 of the Franchise Agreement relating to the exclusivity of the Territory, even if such services are delivered from a location within the Territory. Franchisee disclaims any compensation or consideration for work performed by others in the Territory pursuant to Section 1.4.3.1.

1.4.4 Program Participation. Franchisee's participation in any particular program, including but not limited to the National Account Program, will be subject to the terms and conditions of such program. Such terms and conditions may include, but shall not be limited to, the following:

1.4.4.1 prior to offering, selling or performing any Program Services, Franchisee shall execute such agreements, undertakings or other instruments as CertaPro may require as a condition to participation in any particular program that CertaPro may then be offering to its franchisees. Franchisee agrees to abide by the terms and conditions of such agreements;

1.4.4.2 Program Services, including National Account work, is subject to CertaPro's strict quality control standards, enhanced inspections and testing and shall be completed according to the agreed scheduling requirements. CertaPro may also centralize all accounts, invoicing and payments for Program Services or designate a third party to perform such functions.

1.4.4.3 Franchisee may be required to pay certain fees including participation or administration fees, additional royalties on work performed pursuant to any particular program, or other fees related to the Program Services described in any particular program. These fees may be in addition to the Royalties provided for in Section 2.2 of this Agreement;

1.4.4.4 prior to performing any Program Services, Franchisee must be certified by CertaPro to perform the specific type of work specified in the particular program. Certification may require, among other things, that Franchisee be trained by CertaPro or other qualified third parties and demonstrate, to CertaPro's satisfaction, a minimum level of competency in the performance of the intended service; and

1.4.4.5 Franchisee must be in substantial compliance with the terms of this Agreement and any addendum.

2 – INITIAL FRANCHISE FEE AND ROYALTY FEE

2.1 Initial Franchise Fee. Franchisee agrees to pay to CertaPro, a non-refundable initial franchise fee in the amount of $52,500 ("Initial Franchise Fee"). This Initial Franchise Fee shall be deemed to be fully earned by CertaPro upon the execution of this Agreement and Franchisee shall not be entitled to a refund of any part thereof, regardless of the date of termination of this Agreement, except as provided in Section 16.2 of this Agreement.

2.2 Royalty Fee. Subject to the provisions of Section 2.3, during the Term of this Agreement, Franchisee agrees to pay to CertaPro a monthly Royalty Fee ("Royalty Fee") in an amount equal to 5% of Franchisee's Gross Sales. Gross Sales shall include the total amount of all sales for labor, material, equipment and/or services performed or rendered by: (a) Franchisee, or (b) any third party subcontractors or agents of Franchisee who perform services for Franchisee's customers or clients as part of Franchisee's services. Gross Sales shall also include all commissions, finder's fees, referral fees, construction management fees or other compensation received by Franchisee on the value of any work performed. Franchisee agrees that all Royalty Fees including any Minimum Royalty Fee, are non-refundable.

2.3 Minimum Royalty Fee. Notwithstanding the provisions of Section 2.2 above, Franchisee agrees to pay to CertaPro a minimum annual royalty as set forth below, which will be determined by deducting the amount of Royalty Fees due from Franchisee calculated in accordance with Section 2.2 above, in the applicable Calendar Year, from the amounts set forth below ("Minimum Royalty Fee").

2.3.1 Calendar Year Determination. The parties agree that the following is how calendar years will be determined:

(a) "First Calendar Year" shall be that portion of the year ending on December 31 of the same year as the Effective Date of this Agreement.

(b) "Second Calendar Year" shall be the first full year following the First Calendar Year.

(c) "Third Calendar Year" shall be the second full year following the First Calendar Year.

(d) "Fourth Calendar Year" through "Tenth Calendar Year" shall be determined in the same manner as set forth in subparagraphs (b) and (c) above, except increasing by one for each full year following the First Calendar Year.

2.3.2 If the Effective Date of this Agreement is the first through fifth calendar months (January through May), then, for the Second Calendar Year, Franchisee shall be required to pay a Minimum Royalty Fee in the amount of $22,500, to be paid on or before December 31 of the Second Calendar Year.

2.3.3 If the Effective Date of this Agreement is the sixth through twelfth calendar months (June through December), then, for the Second Calendar Year, Franchisee shall not be required to pay a Minimum Royalty Fee. For the Third Calendar Year, Franchisee shall be required to pay a Minimum Royalty Fee in the amount of $22,500, to be paid on or before December 31 of the Third Calendar Year.

2.3.4 If Section 2.3.2 above is applicable to Franchisee, then for the Third Calendar Year through the Fifth Calendar Year, Franchisee shall be required to pay a Minimum Royalty Fee in the amount of $25,000, to be paid on or before December 31 of each such Calendar Year. If Section 2.3.3 is applicable to Franchisee, then for the Fourth Calendar Year and Fifth Calendar Year, Franchisee shall be required to pay a Minimum Royalty Fee in the amount of $25,000, to be paid on or before December 31 of each such Calendar Year.

2.3.5 For the Sixth Calendar Year through the Tenth or Final Calendar Year, Franchisee shall be required to pay a Minimum Royalty Fee in the amount of $32,500, to be paid on or before December 31 of such Calendar Year. If the Final Calendar Year is less than 12 months, then the amount of the Minimum Royalty Fee will be determined on a pro rata basis based on the number of months or portion of a month during which Franchisee operated in the Final Calendar Year, divided by 12.

2.4 Weekly Reporting. Franchisee agrees that sales, service contracts and jobs are deemed to be closed when the contracted work is substantially complete as defined in Section 2.4.1 below. Franchisee agrees to report Gross Sales using such forms or in such format as CertaPro may specify from time to time ("Sales Report"). CertaPro may, at any time and from time to time, modify the required format and content of the Sales Report.

2.4.1 Substantially Complete. For the purpose of Weekly Reporting, a job is substantially complete when one or more of the following conditions occurs:

(a) The painting crew has moved off of the job because it is complete, or

(b) Franchisee has invoiced the customer for at least 89% of the total cost of the job, excluding the 10% retainer fee normally held by Commercial Services, accounts or customers.

2.5 Due Date of Royalty and Other Monthly Fees. Franchisee agrees to pay the Royalty Fees and all other monthly fees payable to CertaPro by the tenth (10th) day of each month for the prior month's Gross Sales. Calculation of the amount of the Royalty Fees payable by Franchisee shall be based on Sales Reports prepared by Franchisee, which reports shall be prepared in a form approved by CertaPro, and shall be submitted to CertaPro at the same time as the Royalty Fees are paid. In the event that Franchisee fails to submit the required Sales Reports, the Royalty Fees due shall be calculated on Franchisee's monthly average for the preceding 12 months or on such data as may be available to CertaPro.

2.6 Late Payment. Franchisee agrees that any amounts due to CertaPro and not received by CertaPro on or before the due date shall immediately begin to accrue interest as of the due date at the maximum rate allowed by law or one and one-half percent (1½%) monthly, whichever is less, without waiver of any other rights of CertaPro.

2.7 Additional Remedies for Failure to Timely Pay Fees. Franchisee understands and agrees that should Franchisee fail to pay the Royalty Fee, Minimum Royalty Fee or any other fees due to CertaPro when such fees are due, or should Franchisee permit any of Franchisee's accounts with CertaPro to become delinquent, CertaPro may withhold any services it may then be providing to Franchisee until such time as Franchisee pays all outstanding fees due to CertaPro. In addition, CertaPro reserves the right to withhold from Franchisee any products, services, information, advice, consultation, training and leads, and to deny Franchisee access to CertaPro's proprietary software systems if Franchisee is not in compliance with the terms of this Agreement, any addendum or the Operations Manual.

2.8 Software Upgrade Fee. Franchisee agrees to pay to CertaPro a monthly Software Upgrade Fee in an amount equal to 0.25% of Franchisee's Gross Sales.

2.9 Software Support Fee.

2.9.1 Franchisee shall be entitled to receive routine telephone support for any computer program CertaPro makes available to Franchisee. As of the date of this Agreement, Franchisee shall not be required to pay any additional fees for the software support, but CertaPro reserves the right, upon giving 60 days advance notice to Franchisee, to institute a reasonable fee for such services and Franchisee agrees to pay such fees as CertaPro may impose from time to time.

2.9.2 Franchisee understands that any software support provided by CertaPro shall not include support for any hardware or software obtained by Franchisee from third party suppliers nor shall it include the replacing or upgrading Franchisee's computer hardware or any other software used by Franchisee in connection with the CertaPro Business

2.10 Answering Service. Franchisee agrees to subscribe to, and transact all business through, the telephone answering service as designated by CertaPro and shall comply with the terms and conditions established by CertaPro from time to time. As of the date of this Agreement, Franchisee shall not be required to pay any additional fees for the answering service but

CertaPro reserves the right, upon giving 60 days advance notice to Franchisee, to institute a reasonable fee for such services and Franchisee agrees to pay such fees as CertaPro may impose from time to time.

3 – TERM

3.1 Term. This Agreement, unless otherwise terminated pursuant to the terms and conditions of this Agreement, shall commence on the Effective Date and shall continue in force for a period of ten (10) years ("Term").

3.2 Renewal. Franchisee shall have the right to renew the license granted to Franchisee pursuant to this Agreement upon such terms and conditions as CertaPro may then be offering other new CertaPro franchisees, for an additional ten (10) year period provided that:

3.2.1 Franchisee shall have given CertaPro notice of its intention to renew this Agreement no less than one hundred and eighty (180) days prior to the expiration of the Term;

3.2.2 at the expiration of the Term, Franchisee shall not be in default of any provision of this Agreement, any addendum to or amendment of this Agreement or any other agreement in force between Franchisee and CertaPro, and shall have substantially complied with all of the terms and conditions of such agreements throughout the Term;

3.2.3 Franchisee shall have paid all amounts due and payable under this Agreement, including without limitation, all fees referred to in Article 2 and all advertising fees referred to in Article 11;

3.2.4 Franchisee shall have executed, prior to the commencement of any renewal term, all documents and agreements then customarily used by CertaPro in the granting of new franchises, including CertaPro's then current form of franchise agreement, the terms and conditions of which may differ materially from this Agreement, including, without limitation, renewal terms and terms with respect to fees charged by CertaPro which may have been increased; provided, however, that notwithstanding the foregoing, Franchisee shall not be required to pay an initial franchise fee (other than the renewal fee stipulated in Section 3.2.5 hereof) and further provided that Franchisee shall have no further option to renew other than as provided in this Agreement;

3.2.5 Franchisee shall pay to CertaPro a renewal fee equal to ten percent (10%) of the then current franchise fee;

3.2.6 Franchisee shall pay all costs and expenses, including legal fees, which Franchisor may incur in connection with its renewal of the license granted hereunder; and

3.2.7 Franchisee shall have completed, not later than thirty (30) days prior to the expiration of each Term and to CertaPro's satisfaction, all maintenance, retrofitting and upgrading of the vehicles and equipment, including any computer equipment and software, used by Franchisee in connection with the CertaPro Business as CertaPro shall reasonably require so that the CertaPro Business shall reflect the then current image of other CertaPro franchised businesses.

4 – TRAINING AND OPERATIONS ASSISTANCE

4.1 Initial Franchisee Training. Prior to commencing operation of the CertaPro Business, CertaPro agrees to train Franchisee, or Franchisee's principal in the event of a corporate franchisee, in the methods and operations of a CertaPro Business at the next scheduled franchisee training session or at such other regularly scheduled session as agreed pursuant to this Agreement. Such initial training shall include participation in required webinars and attendance at initial training sessions held at CertaPro's headquarters in Pennsylvania or at such other location as CertaPro may designate. All travel, living, and related expenses incurred by Franchisee or Franchisee's representative during the initial training shall be at Franchisee's sole cost and expense.

4.2 Mandatory In-Term Training. From time to time, CertaPro may provide additional training courses which Franchisee or Franchisee's designated representative will be required to attend and for which Franchisee will be charged a reasonable fee. In addition, Franchisee will be responsible for the cost of all travel and living expenses and all wages payable to any of Franchisee's representatives participating in the training programs.

4.3 Operating Assistance. During the term of this Agreement, CertaPro may, at Franchisee's reasonable request and subject to availability, provide Franchisee with continuing advice and guidance with respect to the operation of the CertaPro Business. Franchisee understands and agrees that CertaPro shall provide only such advice and guidance which, in its sole discretion, CertaPro deems reasonably required with respect to the operation of the CertaPro Business.

5 – VEHICLES, MACHINERY, EQUIPMENT AND SIGNS

5.1 Use of Vehicles. Franchisee shall only use vehicle(s) approved by CertaPro in connection with the operation of the CertaPro Business. Franchisee acknowledges and agrees that such vehicle(s) shall be used for the CertaPro Business only and not for any other business or other purpose whatsoever.

5.2 Types of Vehicles. In order to maintain uniformity of vehicles, CertaPro requires that vehicles obtained by Franchisee shall be of the make, model, and year as established by CertaPro and set forth in the Standard Operating Procedures (SOP) of the Operations Manual or otherwise approved by CertaPro in writing. In all cases, the cost of obtaining vehicles shall be borne exclusively by Franchisee.

5.3 Machinery, Equipment and Signs. Franchisee agrees to use in the operation of the CertaPro Business only those brands or types of machinery, equipment, and signs as are in compliance with CertaPro's specifications and standards for design, appearance, function, performance and serviceability and to purchase all such items only from suppliers that have been approved by CertaPro. Franchisee further agrees to place or display in or on any vehicles, machinery, and equipment only such signs, logos, vehicle wraps and display materials that have been approved in writing by CertaPro as set forth in the SOP of the Operations Manual or established by CertaPro from time to time.

5.4 Maintenance and Replacement of Machinery, Equipment and Vehicles. Franchisee agrees that as items of machinery, equipment or any vehicles used in connection with the CertaPro Business become obsolete, or mechanically impaired to the extent that they require replacement, Franchisee will replace such machinery, equipment or vehicles with either the same or substantially the same types of machinery, equipment or vehicles as are being installed or used by other CertaPro's franchised businesses at the time replacement becomes necessary. The cost of replacing such machinery, equipment or vehicles shall be borne exclusively by Franchisee.

6 – OPERATION OF THE FRANCHISE BUSINESS

6.1 Performance Criteria. Depending on the Effective Date of the Franchise Agreement, as set forth in Sections 2.3.2 and 2.3.3 above, Franchisee must achieve certain minimum Gross Sales in the Third Calendar Year through Tenth Calendar Year of operation as set forth below or Franchisee will be in breach of this Agreement:

CALENDAR YEAR	GROSS SALES
3rd – 5th	$500,000
6th – 10th	$650,000

6.2 Duties and Obligations. In recognition of CertaPro's advertising and promotion of the CertaPro System and franchises, and the resultant goodwill associated with the CertaPro Proprietary Marks, Franchisee agrees to operate the CertaPro Business strictly in accordance with the CertaPro System as set forth in the Operations Manual, or otherwise, and further agrees to:

6.2.1 operate the CertaPro Business with due diligence and efficiency in a quality and reputable manner;

6.2.2 ensure that, at all times prompt, courteous and efficient service is accorded to its customers and, in so doing, to adhere to the highest standards of honesty, integrity, fair dealings and ethical conduct;

6.2.3 sell only those services and products that meet CertaPro's uniform standards of quality and quantity, as have been expressly approved for sale in writing by CertaPro and to discontinue the sale of any service or product that fails to comply with this section upon receipt of written notice of such failure,

6.2.4 maintain the condition and appearance of the CertaPro Business and the machinery, vehicles and equipment used in the CertaPro Business consistent with the image of other CertaPro franchises, and to take such steps as are reasonably required, such as conducting maintenance and repairs, on a regular and frequent basis so as to maintain such condition and appearance;

6.2.5 at the request of CertaPro, make available for a reasonable period of time, each of its staff and manager(s) for training or retraining by CertaPro, at CertaPro's principal office or other location(s) designated by CertaPro, and Franchisee shall be responsible for all costs associated with such training including CertaPro's then current training fee, for such training, travel, food and lodging costs and any wages due to Franchisee's staff for attending such training;

6.2.6 comply with all state, local and federal laws, regulations and ordinances applicable to the CertaPro Business including, without limitation, all labor and employment laws, immigration laws, worker health and safety laws; environmental laws; insurance and tax laws; and building, permitting, and licensing laws necessary for the proper operation of the CertaPro Business;

6.2.7 comply with the quality and performance standards established by CertaPro from time to time. In establishing such standards, CertaPro shall consult with any CertaPro franchisee advisory council that may exist at any given time, but shall not be bound to adopt or implement all or any proposals from such council;

6.2.8 cause any third party subcontractors engaged by Franchisee to perform work on behalf of Franchisee in respect of the CertaPro Business to comply with all applicable requirements of this Section 6.2 including, but not limited to, the quality and performance standards required of Franchisee;

6.2.9 cause the CertaPro Business to be operated by at least one person who has successfully completed approved CertaPro training and Mentor programs as deemed required by CertaPro.

6.3 Purchase and Sale of Products and Supplies. Franchisee acknowledges that the reputation and goodwill of the CertaPro System is based upon the offering of high quality services and products. Accordingly, Franchisee agrees to sell or otherwise use only those services and products as CertaPro shall first approve in writing, and which are not thereafter disapproved. Franchisee further agrees that Franchisee shall not sell any paints, decorating products or paint related products that are not designated and approved in writing by CertaPro unless Franchisee first obtains CertaPro's written permission.

Franchisee acknowledges and agrees that CertaPro will not be liable for any losses, financial or otherwise, or damages, including consequential or special damages, resulting from any delay in delivery or availability of any of the products or services designated by CertaPro.

6.4 System Modification. Franchisee agrees that CertaPro may modify the CertaPro System or Programs, and in doing so adopt new trademarks, trade names, services or products and new techniques in connection with any such modification. Franchisee agrees to, at its own cost, promptly implement such changes and in the event it fails to do so, to permit CertaPro to rectify such failure, at Franchisee's cost.

6.5 Telephone Number, Power of Attorney. Franchisee agrees not to publish any telephone numbers for the CertaPro Business other than the telephone number(s) authorized by CertaPro as set forth in Schedule A. Franchisee acknowledges and agrees that such telephone number(s) are the sole property of CertaPro; provided, however, any costs for such use, shall be paid for by Franchisee. In addition to the telephone number(s) authorized by CertaPro, Franchisee further agrees to display in its advertising and other marketing or promotional materials, as well as in all business documents related to the CertaPro Business, including without limitation contracts, purchase orders, invoices, stationery, and business cards, the toll-free telephone number designated by CertaPro.

Franchisee hereby appoints CertaPro and any of CertaPro's officers as Franchisee's irrevocable attorney-in-law and in fact in all matters dealing with or concerning any and all telephone numbers used in connection with the CertaPro Business or any telephone directory advertisements, or listings including online or electronic listings, containing those numbers, including but not limited to, the execution at any time, whether before or after any termination or expiration of this Agreement, of any writings transferring to CertaPro or to any person, firm or corporation designated by CertaPro, any and all telephone numbers advertised or listed under the CertaPro name or any of CertaPro's trademarks in any medium, and this appointment shall survive the termination or expiration of this Agreement. Franchisee shall execute a conditional assignment of telephone numbers in such form prescribed by CertaPro as set forth in Schedule B.

6.6 Identification of the CertaPro Business. Franchisee shall be required to use the CertaPro Proprietary Marks on all materials or advertising representing the CertaPro Business in any medium, including without limitation business cards, stationery, yellow pages or online/electronic advertising, uniforms, checks, proposals, contracts, signage, vehicle advertising and any marketing and promotional materials in any medium, ("Materials") provided Franchisee (i) accurately depicts the CertaPro Proprietary Marks on the Materials, (ii) includes a statement on the Materials indicating that the business is independently owned and operated by Franchisee, (iii) does not use the CertaPro Proprietary Marks in connection with any other trademarks, trade names or service marks unless specifically approved by CertaPro in writing prior to such use, and (iv) makes available to CertaPro, upon its request, a copy of any Materials depicting the CertaPro Proprietary Marks.

Any Materials not furnished or made available by or through CertaPro that Franchisee wishes to use for public display, must first be submitted to CertaPro for approval, which approval CertaPro shall not unreasonably withhold; provided, however, that such Materials are current, in good condition and in good taste. Such Materials must also accurately depict the CertaPro Proprietary Marks and be used in manner so as to promote or strengthen CertaPro brand recognition.

6.7 Warranty Service. Franchisee agrees to offer and honor such warranty on all materials and workmanship sold by Franchisee as CertaPro may designate from time to time in the SOP section of the Operations Manual. Franchisee shall cooperate with CertaPro in all warranty claims and shall make no statements or admissions as to liability. Franchisee shall promptly report all warranty claims to CertaPro and shall undertake all warranty work under the Proprietary Marks. All costs associated with administering and honoring the warranty service shall be borne by Franchisee including all costs referred to in Section 16.5.8 regarding Franchisee's obligations upon termination or expiration of this Agreement.

6.8 Maintenance of Bank Accounts/Transfer of Funds. Franchisee agrees to provide CertaPro with the name, address, telephone number and other contact information of the bank or banks in which the bank account(s) maintained for the operation of the CertaPro Business are located and to provide CertaPro with all account numbers for such account(s) so that CertaPro may arrange to have such funds as Franchisee may, from time to time, owe to CertaPro transferred directly from Franchisee's bank account(s) into CertaPro's accounts. Franchisee further agrees to cooperate fully in arranging for the electronic transfer of funds from its accounts to CertaPro's accounts and agrees to execute such documents or instruments as may be required by its bank(s) or CertaPro's bank(s).

6.9 Right to inspect the CertaPro Business. Franchisee agrees to permit CertaPro or its authorized representatives to enter Franchisee's premises or job sites at all reasonable times during the business day for the purpose of making periodic evaluations and to ascertain if the provisions of this Agreement are being observed by Franchisee. In the event of any such inspection, Franchisee and its staff agree to cooperate fully with such inspection and shall provide CertaPro or its authorized representative access to Franchisee's computer(s) and electronic devices, and all programs and databases contained thereon at any time. For purposes of this Agreement "premises" shall be deemed to mean any or all of the following locations: (i) any location where Franchisee regularly conducts the CertaPro Business; (ii) any location where Franchisee maintains the books and records, financial or otherwise, of the CertaPro Business; or (iii) any location which Franchisee uses in any manner in connection with the CertaPro Business.

6.10 System Data. Franchisee and Franchisor agree that all data transmitted, used, contained on, stored on, or entered into the computer system of the Franchised Business or the CertaPro email system ("System Data"), including but not limited to, Customer Data, are deemed to have been derived from the goodwill of the "CertaPro" name and Proprietary Marks and, therefore, such System Data is considered Confidential Information and is owned by CertaPro. Franchisee agrees that CertaPro may use or access such System Data for any purpose. Franchisee agrees to use the System Data only in the operation of and for the benefit of the Franchised Business. Franchisee agrees to comply with the Operations Manual and all applicable laws, whether federal, state, or local, regarding the use and safeguarding of System Data. Franchisee agrees to implement commercially prudent privacy policies, procedures, and practices and to notify CertaPro immediately of any known or suspected System Data breaches. In event of such security breach, Franchisee agrees to fulfill all notice and other legal requirements as or on behalf of the owner, holder, and/or user of such System Data. For purposes of this Agreement, Customer Data is defined as current, prospective and former customer names and contact information, customer purchasing histories, credit extensions and discounts offered to customers, and any other data or information pertaining to customers, maintained, used or stored in any tangible or intangible media, including without limitation, hard copy or electronic formats.

7 – OPERATIONS MANUAL

Franchisor will lend Franchisee one (1) copy of the Methods of Operations Manual and appropriate revisions as may be made from time to time. Franchisee agrees to operate its CertaPro Business in strict compliance with the Operations Manual, as it may be reasonably changed from time to time. The Operations Manual shall be confidential and at all times remain the property of Franchisor. Franchisee shall not make any disclosure, duplication or other unauthorized use of any portion of the Operations Manual. The provisions of the Operations Manual constitute provisions of this Agreement as if fully set forth herein. Franchisee shall insure that its copy of the Operations Manual is current and up-to-date. If there is a dispute relating to the contents of the Operations Manual, the master copy maintained by Franchisor at its principal office shall be controlling. The cost of implementing any such changes, alterations or modifications as called for in the Operations Manual shall be borne exclusively by Franchisee.

8 – CONFIDENTIAL INFORMATION

8.1 Trade Secrets. Franchisee agrees that it will not, during the term of this Agreement or thereafter, communicate or divulge to, or use for the benefit of any other person or entity, any Confidential Information, including System Data, Customer Data, the names of other CertaPro franchisees and mailing lists, knowledge, or know-how made known to it by virtue of Franchisee's operation under the terms of this Agreement. Franchisee agrees to divulge such information only to such of its employees/subcontractors as must have access to it in order to operate the CertaPro Business; provided, however, that any such employee/subcontractor receiving such information shall have executed a confidentiality agreement in such form prescribed by CertaPro as set forth in Schedule C. Any and all information, knowledge and know-how, including, without limitation, drawings, materials, equipment, and other data, which CertaPro designates as confidential, shall be deemed confidential for purposes of this Agreement.

8.2 Non-Disclosure. Franchisee acknowledges that it has had no part in the creation or development of, or claims any rights whatsoever in any element of the CertaPro System, the CertaPro Proprietary Marks or any matters dealt with in the Operations Manual and that all disclosures made to Franchisee relating to the CertaPro System are communicated to Franchisee solely on a confidential basis and as trade secrets. Franchisee agrees to maintain the confidentiality of all such information during the term of this Agreement and at all times thereafter.

9 – CERTAPRO PROPRIETARY MARKS

CertaPro represents that it is the sole and exclusive owner of the CertaPro Proprietary Marks and Franchisee hereby acknowledges and agrees that the CertaPro Proprietary Marks are the exclusive property of CertaPro and that Franchisee's right to use the CertaPro Proprietary Marks is specifically conditioned upon the following terms and conditions:

9.1 Trademark Ownership. Franchisee agrees that the CertaPro Proprietary Marks are valuable property owned by CertaPro, and CertaPro is the exclusive owner of all right, title and interest in and to the CertaPro Proprietary Marks and all past, present or future goodwill of the CertaPro Business which is associated with or attributable to the CertaPro Proprietary Marks. Franchisee's use of the CertaPro Proprietary Marks shall inure to the benefit of CertaPro. Franchisee disclaims all right, title and interest in or to such goodwill and the CertaPro Proprietary Marks and acknowledges and agrees that such goodwill and the CertaPro Proprietary Marks are the exclusive property of CertaPro. Franchisee shall not, during or after the Term of this Agreement, engage in any conduct directly or indirectly which would infringe upon, harm or contest the rights of CertaPro in any of the CertaPro Proprietary Marks or the goodwill associated with the CertaPro Proprietary Marks.

9.2 Use of the CertaPro Proprietary Marks. Franchisee agrees to use the CertaPro Proprietary Marks only in connection with the CertaPro Business and only in a manner that accurately depicts the CertaPro Proprietary Marks. Such use of the CertaPro Proprietary Marks shall be only as permitted by CertaPro in the Operations Manual or as otherwise directed by CertaPro. Franchisee agrees to comply with all trademark, trade name and service mark notice marking requirements. Franchisee agrees to conduct the CertaPro Business in accordance with the standards and requirements pertaining to quality, production, signage, equipment, cleanliness, maintenance, appearance, service standards, method of operation and sales promotion prescribed by CertaPro from time to time. Franchisee agrees to implement and abide by the requirements and recommendations of CertaPro directed to enhancing substantial uniformity of the CertaPro System. Franchisee may not use the "Certa Pro" name in the name of its corporation or limited liability company, except that Franchisee may use the name "CertaPro of the Territory identified on Schedule A" to indicate that it is doing business as "CertaPro" but only upon (i) obtaining CertaPro's prior written permission; (ii) obtaining a "dba" (doing business as) certificate from the state or local agency responsible for issuing such certificates that puts the public on notice that Franchisee and CertaPro are separate legal entities; and (iii) filing a copy of such dba certificate with CertaPro. All stationery, business cards, and contracts into which Franchisee enters shall contain Franchisee's dba or fictitious name and a conspicuously displayed notice that Franchisee operates its CertaPro Business as an independently owned and operated franchise of CertaPro. Franchisee may also use the "Certa Pro" name in such other manner as CertaPro may specify from time to time.

9.3 Litigation. In the event any person or entity improperly uses or infringes the CertaPro Proprietary Marks, CertaPro shall control all litigation and shall be the sole judge as to whether suit shall be instituted, prosecuted or settled, the terms of settlement, and whether any other action shall be taken. Franchisee shall promptly notify CertaPro of any such use or infringement of which Franchisee is aware. Franchisee shall promptly inform CertaPro of any claim arising out of Franchisee's use of any CertaPro Proprietary Marks and shall cooperate with any action undertaken by CertaPro regarding such claim.

9.4 Substitutions. If there is a claim by any party that its rights to use any of the CertaPro Proprietary Marks are superior and if CertaPro determines that such claim is legally meritorious, then upon receiving written notice from CertaPro, Franchisee agrees, at its expense, immediately make such changes and use such substitutions to the CertaPro Proprietary Marks as may be required by CertaPro. Franchisee will not make any changes or substitutions whatsoever in or to the use of the CertaPro Proprietary Marks unless directed by CertaPro in writing.

9.5 Revisions to the Proprietary Marks. Recognizing that variations and additions to the CertaPro Proprietary Marks may be required from time to time in order to preserve and enhance the public image of the CertaPro System, to accommodate changing consumer trends, and to ensure the continuing efficiency and profitability of franchisees in the CertaPro System generally, Franchisee acknowledges and agrees that Franchisor may, from time to time, upon notice and acting reasonably, revise the CertaPro Proprietary Marks, including the adoption and use of new or modified trademarks and trade names, and Franchisee agrees to promptly accept, implement, use and display all such changes, alterations and modifications. The cost of implementing any such changes, alterations or modifications shall be borne exclusively by Franchisee: provided, however, that Franchisee shall be permitted to deplete any existing supplies of stationery, advertising or marketing materials that Franchisee has on hand at the time of such revisions to the CertaPro Proprietary Marks.

10 – RESTRICTIVE COVENANTS AND TRADE SECRETS

10.1 During the Term of This Agreement. During the Term of this Agreement, neither Franchisee, its partners, members, or shareholders, nor any member of the immediate family of Franchisee involved in the operation of the CertaPro Business or its partners, members, or shareholders shall, directly or indirectly, for itself or through, on behalf of, or in conjunction with any other person, partnership, corporation or other entity own, maintain, engage in, be employed by, or have any interest in any other business which offers or sells products or services of the type offered under the CertaPro System or building maintenance services; provided, however, that this section shall not apply to Franchisee's operation of any other CertaPro franchise. Franchisee agrees that he will not provide any unauthorized services, advertise its services under any mark other than the Proprietary Marks or use any software or computer programs except as approved by CertaPro.

10.2 After the Term of This Agreement. For a period of three (3) years after the expiration and nonrenewal, transfer or termination of this Agreement, regardless of the cause, neither Franchisee, its partners, members, or shareholders nor any member of the immediate family of Franchisee involved in the operation of the CertaPro Business or its partners, members, or shareholders shall, directly or indirectly, for itself or through, on behalf of, or in conjunction with any other person, partnership, corporation or other entity, own, maintain, engage in, be employed by, or have any interest in any other business which offers or sells products or services of the type offered under the CertaPro System within a radius of twenty (20) miles as the crow flies of the Territory, or five (5) miles of any other CertaPro franchise's territory in operation, or of any territory which is being considered or for which discussions are under way for a CertaPro franchise, as of the date of expiration and nonrenewal, transfer or termination of this Agreement; provided, however, Franchisee may continue to operate any other CertaPro System franchise for which Franchisee and CertaPro have a then-current franchise agreement.

For a period of three (3) years after the expiration and nonrenewal, transfer or termination of this Agreement, regardless of the cause, neither Franchisee, its partners, members, or shareholders nor any member of the immediate family of Franchisee involved in the operation of the CertaPro Business or its partners, members, or shareholders shall, directly or indirectly, for itself or through, on behalf of, or in conjunction with any other person, partnership or corporation solicit business from then existing or prospective CertaPro National Account or customers with whom Franchisee's former CertaPro franchise did business in the preceding five (5) years for any related or competitive business purpose, nor solicit any employee of Franchisor or any other CertaPro System franchisee to discontinue his or her employment.

For a period of three (3) years after the expiration and nonrenewal, transfer or termination of this Agreement, regardless of the cause, neither Franchisee, its partners, members, or shareholders, nor any member of the immediate family of Franchisee involved in the operation of the CertaPro Business, shall, directly or indirectly, for itself or through, on behalf of, or in conjunction with any other person, partnership, corporation or entity, own, maintain, engage in, be employed by, or have any interest in any company which engages in any business competing in whole or in part with CertaPro franchisees, solicits work for CertaPro franchisees that otherwise would fall under the National Account Program, or which grants franchises or licenses for any business competing in whole or in part with Franchisor.

10.3 Intent and Enforcement. It is the intent of the parties that the provisions of Article 10 shall, to the fullest extent permissible under applicable law, be judicially enforced; accordingly, the parties agree that any reduction in scope or modification of any part of the noncompetition provisions contained herein shall not render any other part unenforceable. In the event of the actual or threatened breach of this section by Franchisee, any of its partners, members, or shareholders or any member of the immediate family of Franchisee involved in the operation of the CertaPro Business or any of its partners, members, or shareholders, Franchisor shall be entitled to an injunction, without bond, restraining such person from any such actual or threatened breach. Franchisee agrees that in the event of the actual or threatened breach of this Article, Franchisor's harm will be irreparable and that Franchisor has no adequate remedy at law to prevent such harm. Franchisee further acknowledges and agrees that the provisions of this Article shall be tolled during any default under this Article.

10.4 Employees. Franchisee shall require its officers, directors, partners, members, shareholders, employees, and members of the immediate family of Franchisee involved in the operation of the CertaPro Business to execute a noncompetition agreement containing provisions similar to those set forth herein and in the form attached as Schedule D.

10.5 Publicly-Owned Entity. This Article shall not apply to any ownership by Franchisee or any other person subject to this Article of a beneficial interest of less than three percent (3%) in the outstanding securities or partnership interests in any publicly-held entity.

11 – ADVERTISING

The parties acknowledge the value of standardized advertising and marketing programs to the growth of goodwill, public image, brand recognition and reputation associated with the CertaPro Proprietary Marks and the CertaPro System. Franchisee, therefore, agrees to actively promote the CertaPro Business, to abide by all of CertaPro's advertising requirements and to comply with the following provisions.

11.1 General Advertising Fund.

Franchisee acknowledges and agrees that uniform advertising and promotion by CertaPro, both inside and outside the Territory, contributes to the goodwill, public image, brand recognition and reputation of the CertaPro System and the CertaPro Business. Accordingly, Franchisee agrees that CertaPro may institute, maintain and administer a general advertising fund or funds ("General Advertising Fund") for such national, regional and other advertising programs as CertaPro, in its sole judgment, may deem necessary or appropriate to advertise or to promote the CertaPro System and the CertaPro Business, including for both Residential and Commercial Services. CertaPro shall have complete discretion as to the use and allocation of these funds.

11.1.1 During the Term of this Agreement, Franchisee agrees to make regular contributions to the General Advertising Fund in an amount equal to 3% of its Gross Sales, which shall be payable at the same time and in the same manner as Royalty Fees are payable.

11.1.2 Contributions to the General Advertising Fund shall be accounted for separately from the other funds of CertaPro. Such contributions may be used to pay for any of CertaPro's direct program costs and/or related overhead expenses related to administration of the General Advertising Fund, including reasonable salaries, accounting and administrative costs incurred by CertaPro. A statement of the operation of the General Advertising Fund shall be prepared annually and shall be made available to Franchisee upon request. The cost of preparing such statement shall be paid for by the General Advertising Fund.

11.1.3 Contributions to the General Advertising Fund shall be used and disbursed by CertaPro for national, regional and/or local advertising, for promotional events and materials, market research costs, creative and production costs, as well as to pay CertaPro for any advertising and/or promotional materials produced by CertaPro.

11.1.4 The selection of media and locale for media placement, the nature of promotional programs and the content of advertising and promotional material shall be at CertaPro's sole discretion and CertaPro may engage the services of an advertising agency or agencies to formulate, develop, produce and conduct any or all such advertising and promotion, the cost of which shall be payable from the General Advertising Fund. CertaPro shall not assume any direct or indirect liability or obligation whatsoever towards Franchisee with respect to the direction or administration of the General Advertising Fund.

11.1.5 Franchisee understands and acknowledges that the General Advertising Fund is not intended to promote the business of a single franchisee or specific group of franchisees, but rather is intended to promote public recognition of the CertaPro Proprietary Marks and to benefit CertaPro, the CertaPro System, and all CertaPro franchisees system wide. Accordingly, Franchisee understands and agrees that expenditures made from the General Advertising Fund may not directly benefit Franchisee and that expenditures from the General Advertising Fund in Franchisee's market area may not necessarily be proportionate to Franchisee's contribution to the General Advertising Fund.

11.2 Local Advertising and Local Cooperative Advertising.

11.2.1 Franchisee acknowledges and agrees that to effectively compete within the Territory, Franchisee must undertake and execute an extensive marketing and advertising program designed to promote the CertaPro Business within the Territory. Therefore, in addition to making contributions to the General Advertising Fund, Franchisee agrees, at Franchisee's cost and expense, to market, advertise and promote the CertaPro Business in the Territory and shall:

(a) obtain business listings in local online yellow pages directories containing such copy as may reasonably be specified by CertaPro. The cost of such listing, if any, shall be paid by Franchisee, or by Franchisee and other participating franchisees in the case of a joint listing. Franchisee must also maintain at least one white pages listing in the local telephone directory serving the Territory;

(b) market, advertise and promote the CertaPro Business in the Territory only in a manner that will reflect favorably on CertaPro, Franchisee, the services and products offered by Franchisee, and the good name, goodwill, public image, brand recognition, and reputation of CertaPro and the CertaPro Business; and

(c) not use any advertising or other marketing or promotional Materials furnished by CertaPro or any other materials containing any of the CertaPro Proprietary Marks for any purpose, other than to market and promote the CertaPro Business. Franchisee agrees not to copy or otherwise duplicate any advertising or promotional Materials prepared by or for, or furnished by, CertaPro without CertaPro's prior written consent.

11.2.2. Franchisee acknowledges and agrees that local cooperative advertising in electronic and other media is necessary to the successful operation of Franchisee's CertaPro Business and that advertising by other CertaPro franchisees within Franchisee's Designated Marketing Area ("DMA"), as determined by Nielsen, directly benefits Franchisee's CertaPro Business.

11.2.2.1 Franchisee agrees that, for the Term of this Agreement, to participate in and pay for local cooperative advertising in its DMA, either alone or with other CertaPro franchisees in the DMA. Franchisee agrees that the amount of contribution for this local cooperative advertising will be based on Gross Sales, and will be jointly determined by Franchisee, any other franchisee members of the local advertising cooperative and CertaPro and therefore, may vary from time to time. If part of a local advertising cooperative with other franchisees, Franchisee agrees to make such payments to CertaPro at the same time and in the same manner as Royalty and General Advertising Fund payments are made pursuant to the terms of this Agreement. CertaPro agrees to account separately for such funds and to disburse them as determined by the local advertising cooperative and approved by CertaPro.

11.2.3 In addition to contributions to the General Advertising Fund, Franchisee agrees to spend on local advertising, either by way of direct promotion or participation in a local advertising cooperative with other CertaPro franchisees, an amount equal to six percent (6%) of Gross Sales, including amounts paid by Franchisee for local cooperative advertising. Notwithstanding the foregoing, for a period of one year following the date

Franchisee begins operating Franchisee's CertaPro Business, Franchisee shall spend an amount equal to 12% of Franchisee's Gross Sales on local advertising.

11.2.3.1 This local advertising shall be restricted to the Territory or, in the case of advertising cooperatives, Franchisee agrees assure that such advertising shall directly benefit the Territory. Franchisee shall, on the last days of June and December in each year, and at such other time or times as CertaPro may reasonably request, provide CertaPro with evidence that such monies have been expended in the previous six months and a report of the manner in which such monies have been expended.

11.2.3.2 In the event Franchisee shall not have spent the preceding amounts on local advertising in any twelve-month period ending on December 31, Franchisee agrees make an additional contribution to the General Advertising Fund in an amount equal to the difference between the amount payable above and the amount actually spent by Franchisee on local advertising.

11.3 Approval of Marketing, Advertising and Promotional Materials. Franchisee agrees to use only such marketing, advertising or promotional Materials as are furnished, approved or made available by or through CertaPro and to use them only in a manner prescribed by CertaPro. Any marketing, advertising or promotional Materials not furnished or made available by or through CertaPro that Franchisee wishes to use, must first be submitted to CertaPro for approval, which approval CertaPro shall not unreasonably withhold, provided, that such materials are current, in good condition and in good taste. Such Materials must also accurately depict the CertaPro Proprietary Marks and be used in manner to promote or strengthen CertaPro's good name, goodwill, public image, brand recognition and reputation. Franchisee agrees, at any time, not to transfer or provide such Materials to any third party, other than a licensee authorized to sell the products depicted in such materials, without CertaPro's prior written consent.

11.4 Ownership of Marketing, Advertising and Promotional Materials. Franchisee acknowledges and agrees that CertaPro is the sole and exclusive owner of all copyrights in any and all marketing, advertising or promotional Materials made available to Franchisee that have been prepared by or on behalf of CertaPro or contain any of the CertaPro Proprietary Marks and that such Materials shall at all times remain the exclusive property of CertaPro.

12 – ACCOUNTING, RECORDS, REPORTS, AUDITS AND INSPECTIONS

12.1 Bookkeeping and Accounting Records. Franchisee agrees to establish a bookkeeping and accounting system conforming to such requirements as are prescribed by CertaPro in its Operations Manual from time to time. In the event that CertaPro establishes computerized bookkeeping or accounting system for its franchisees, Franchisee agrees to use such systems and pay all reasonable fees charged by CertaPro or others for the use of such systems and to purchase or lease all computer hardware and software required for such systems.

12.2 Business Records. Franchisee agrees to establish a record-keeping system conforming to such requirements as are prescribed by CertaPro in its Operations Manual from time to time. Among other things, such record-keeping system shall include a complete record of all work performed in connection with the CertaPro Business, including copies of all estimates, proposals and contracts, and a complete listing of all work performed by any subcontractors engaged by Franchisee, including copies of all contracts, invoices or statements. Franchisee agrees to make such records available for inspection by CertaPro or its authorized representatives during regular business hours in order to determine that Franchisee has complied with the record-keeping provisions of this Agreement.

12.3 Financial Reports and Inspections. Franchisee agrees to submit to CertaPro the following:

12.3.1 Monthly Reports. On or before the tenth (10th) day of each month a monthly statement of Gross Sales for the prior month, on the Gross Sales Report forms designated by CertaPro.

12.3.2 Annual Reports. If requested, Franchisee shall provide profit and loss statements and balance sheets prepared in accordance with generally accepted accounting principles. Annual reports shall be submitted to CertaPro within ninety (90) days following the end of Franchisee's fiscal year.

CertaPro reserves the right to require the submission of Franchisee's profit and loss statement and balance sheet on a more frequent basis, semi-annually, quarterly or monthly, if, in CertaPro's opinion, Franchisee demonstrates operational or financial difficulties. Franchisee understands and agrees that a determination by CertaPro that such reports shall be submitted on a more frequent basis shall be final, and further agrees to provide such reports at such times as CertaPro requires.

12.3.3 Tax Returns. If requested, Franchisee shall provide a true copy of all state, federal and local income tax returns, together with all accompanying schedules, filed by Franchisee in respect of the CertaPro Business.

12.4 Inspection and Audit of Books and Payroll Records. Franchisee agrees to permit CertaPro, through its authorized representatives and agents, to inspect Franchisee's records, premises and methods of operation from time to time during regular business hours in order to determine that Franchisee is in compliance with the quality control and sales reporting provisions of this Agreement. CertaPro shall have the right to inspect all Franchisee's financial and payroll records, which shall include, but shall not be limited to, the following: bank statements; check registers; canceled checks; all federal, state and local income, sales and gross receipts tax returns; all federal, state and local payroll tax returns, Form W2s and Form 1099s; financial statements; general ledgers; computer generated reports; payroll records; workers' compensation audit reports; purchase orders and invoices, and disbursement records, including subcontractor files.

12.5 Fee Adjustments for Underpayment. In the event that any such examination or audit discloses that Franchisee has not paid or has underpaid CertaPro any amounts that it is entitled to receive under this Agreement, Franchisee agrees to pay to CertaPro, within ten (10) days after receipt of written notice, any amount due to CertaPro as determined by either (a) the financial statements or reports prepared by Franchisee's accountant as required by this Agreement or (b) the audit inspection performed by CertaPro or its authorized agent in accordance with Section 12.4 of this Agreement. If such an examination discloses any underpayment of the amount owed, interest on the unpaid amount at the rate of one and one-half percent per month (18% per annum) or at the maximum rate permitted by law, whichever is less shall be due from and after the date CertaPro notifies Franchisee of such underpayment.

In the event that any such examination or audit discloses an understatement of Franchisee's Gross Sales or a variance of 3% or more from the data reported to CertaPro in respect of any item which is material to the computation of fees due to CertaPro, in addition to any other rights it may have, CertaPro may conduct such further periodic audits and/or examinations of Franchisee's books and records as CertaPro reasonably deems necessary for up to two years thereafter and such further audits and/or examinations shall be at Franchisee's sole expense, including without limitation, professional fees, travel, and room and board expenses directly related thereto. Furthermore, if Franchisee intentionally understates or underreports Gross Sales, or if a subsequent audit or examination conducted within the two-year period discloses any understatement or variance of 3% or more, in addition to any other remedies provided for in this Agreement, at law or in equity, CertaPro shall have the right to terminate this Agreement immediately.

In order to verify the information supplied by Franchisee, CertaPro may reconstruct Franchisee's Gross Sales through any reasonable method of analyzing and reconstructing sales. Franchisee agrees to accept any such reconstruction of Gross Sales unless Franchisee provides evidence in a form satisfactory to CertaPro of Franchisee's Gross Sales within a period of 14 days from the date of notice of understatement or variance.

12.6 Credit and Trade References. Franchisee authorizes CertaPro to make inquiries of Franchisee's bankers, suppliers and other trade creditors as to their dealings with Franchisee in relation to the CertaPro Business, to discuss the affairs, finances and accounts of the CertaPro Business, and by execution of this Agreement, Franchisee authorizes and directs such bankers, suppliers and other trade creditors to discuss with CertaPro the affairs, finances and accounts of the CertaPro Business, and to obtain information and copies of invoices relating to sales or other dealings with all such persons and Franchisee in any way relating to the CertaPro Business. Franchisee agrees, upon the request of CertaPro, to execute and deliver such documents as are required in order to permit such bankers, suppliers or other trade creditors to release or disclose any such information and documents to CertaPro.

13 – INSURANCE

13.1 Types of Insurance. Franchisee agrees, at its sole cost and expense, to obtain and maintain in full force and effect throughout the Term, such types and amounts of insurance as required by CertaPro from time to time as set forth in the Operations Manual or Standard Operating Procedures. All liability insurance policies, with the exception of worker's compensation, must name Certa ProPainters, Ltd. and its parent, FS Brands, Inc., as additional insureds ("Additional Insureds"), provide that the policy cannot be canceled, non-renewed or modified without thirty (30) days' prior written notice to CertaPro, contain a "Waiver of Subrogation" in favor of the Additional Insureds, and must be primary and noncontributory with respect to the Additional Insureds. All insurance carriers must carry a rating of A VII or higher by A. M. Best Co. Franchisee agrees that CertaPro reserves the right to approve the insurance carrier. The parties acknowledge that current requirements include the following:

13.1.1 Workers' Compensation and Employer's Liability Insurance. Workers' Compensation with statutory limits and coverage as required by the laws of the state(s) with jurisdiction over the CertaPro Business, and Employer's Liability in such form and amounts as prescribed by CertaPro from time to time, but in no event shall such insurance be less than $100,000 per employee for bodily injury by accident/disease with a $500,000 policy limit.

13.1.2 Automobile Liability Insurance. Automobile liability policy in a minimum amount of $500,000 combined single limit.

13.1.3 Commercial General Liability Insurance. Commercial general liability insurance, including products liability and completed operations, broad form contractual liability, in an amount of not less than $2,000,000 in the aggregate and $1,000,000 per occurrence,

13.1.4 Excess Insurance. Excess insurance in the amount of $1,000,000 per occurrence.

Prior to the commencement of operations, Franchisee shall furnish to CertaPro a Certificate of Insurance demonstrating that the above insurance coverages are in effect, together with a copy of all such insurance policies, if requested. All policies shall be renewed annually throughout the term of this Agreement and Franchisee shall cause a renewal Certificate of Insurance for each required coverage to be mailed to CertaPro prior to the expiration of such coverage. Franchisee understands and acknowledges that the above amounts of coverage are minimum amounts and do not represent a recommendation by CertaPro as to the amount of insurance coverage Franchisee should maintain for the CertaPro Business. Franchisee further understands and acknowledges that it is Franchisee's sole responsibility to determine the proper insurance coverage that is appropriate to protect Franchisee's interests and that Franchisee should seek the consultation and advice of an independent insurance broker to assist Franchisee in making an informed determination.

13.2 Placement of Insurance by CertaPro. If Franchisee fails to obtain or keep in force any insurance referred to in Section 13.1 above, or should any such insurance not be as required in Section 13.1 above, CertaPro may, in its sole discretion, without assuming any obligation in connection therewith, purchase such insurance and charge the cost of any such insurance to Franchisee. Franchisee shall immediately reimburse CertaPro for all costs incurred by CertaPro in connection with the placement of such insurance.

13.3 Third Party Subcontractors – Insurance. Franchisee agrees not to permit any third party subcontractor to perform any work or offer any services on behalf of Franchisee in respect of the CertaPro Business unless such subcontractor maintains insurance coverage in such amounts and types as Franchisee is required to maintain under the provisions of this Article 13 and such insurance names CertaPro as an additional insured. Franchisee agrees to maintain evidence that such insurance by its subcontractors is in effect and to provide such proof of insurance as CertaPro may require in its sole discretion from time to time.

14 – SALE, ASSIGNMENT, TRANSFER AND ENCUMBRANCES

14.1 Assignment by Franchisee.

14.1.1 Franchisee acknowledges that the rights and duties set forth in this Agreement are personal to Franchisee, and that CertaPro has granted to Franchisee the rights and license contained herein in reliance on Franchisee's business skill and financial capacity and if Franchisee is a corporation or limited liability company, then in reliance upon the owner's business skill and financial capacity. Accordingly, Franchisee agrees not to sell, assign, sub-franchise, transfer, convey, give away, pledge, mortgage, lease or otherwise encumber any interest in this Agreement without the prior written consent of CertaPro. Any purported assignment or transfer, by operation of law or otherwise, without the prior written consent of CertaPro, shall be null and void and shall constitute a material breach of this Agreement.

14.1.2 CertaPro agrees not to unreasonably withhold its consent to a transfer of any interest of Franchisee in this license; provided, however, that prior to the time of transfer, Franchisee fulfills the terms of the transfer policy of CertaPro which is then in effect. CertaPro may, as part of such policy and in its sole discretion require that:

(a) all of Franchisee's accrued monetary obligations to CertaPro and all other outstanding obligations related to the CertaPro Business shall have been paid or satisfied, including payment of any Minimum Royalty Fees due pursuant to Section 2.3; provided, however, that the amount of the Minimum Royalty Fee due will be determined on a pro rata basis based on the number of months or portion of a month during which Franchisee operated for the Calendar Year in which the transfer is finalized;

(b) Franchisee shall have executed a general release under seal, in a form satisfactory to CertaPro, of any and all claims against CertaPro and its partners, officers, directors, affiliates, shareholders and employees, in their corporate and individual capacities, including, without limitation, claims arising under federal, state and local laws, rules and ordinances;

(c) Franchisee agrees that it shall remain liable for all warranties granted by Franchisee during the operation of the CertaPro Business and that it shall perform all such remedial work as may be necessary to comply with the terms of such warranties, or, in the event that Franchisee is unable or otherwise fails to perform such warranty work, Franchisee agrees to pay to CertaPro the cost to perform such warranty work plus a fifteen percent (15%) administration charge;

(d) the satisfaction of such other reasonable condition as may be required by CertaPro, in its sole discretion, including but not limited to, the transferee's demonstration of adequate business standards and character and financial capabilities and resources; Franchisee's having fully and adequately disclosed to the transferee all relevant financial information pertaining to the CertaPro Business; the execution of all necessary licenses and other agreements; the execution by the transferee of the then current Franchise Agreement; the assumption by the transferee of all responsibility for any warranty work; and completion by the transferee, transferee's principals or employees, as the case may be, of such training courses as are deemed necessary by CertaPro. CertaPro reserves the right to revoke its consent to a transfer in the event transferee does not successfully complete all training requirements to CertaPro's satisfaction;

(e) upon obtaining consent from CertaPro to the transfer of Franchisee's license, Franchisee shall pay to CertaPro the then current transfer, training and processing fees; and

(f) Franchisee shall deliver such written assurances, as CertaPro may reasonably require, that Franchisee shall observe and abide by all covenants, restrictions and agreements to be performed or observed by Franchisee in connection with Articles 7, 8, 9, and 10 hereof, and that such Articles shall survive any transfer or sale contemplated by Franchisee and shall remain enforceable against Franchisee.

14.2 Right of First Refusal. Any party holding any interest in Franchisee and who desires to accept a bona fide offer from a third party to purchase his or its interest in the CertaPro Business shall notify CertaPro in writing of each such offer, provide CertaPro with the name and address of the third party and a copy of the sales agreement and CertaPro shall have the right and option exercisable within thirty (30) days after receipt of such written notification, to send written notice to the seller that CertaPro or its nominee intends to purchase such seller's interest on the same terms and conditions offered by the third party. Any material change in the terms of any offer prior to closing shall constitute a new offer subject to the same rights of first refusal by CertaPro or its nominee as in the case of an initial offer. The failure of CertaPro to exercise the option afforded by this Section 14.2 shall not constitute a waiver of any other provision of this Agreement, including all of the requirements of this Article 14 with respect to a proposed transfer.

14.3 Sale of Shares or Other Interest in Franchisee. In the event Franchisee is a corporation, partnership or limited liability company, any transfer of ownership or control whatsoever, shall be deemed to be an assignment of this Agreement and shall be subject to all of the provisions of this Article 14. Franchisee agrees to provide, upon CertaPro's request, a certificate certifying the then current shareholders, directors, officers, members, or partners, as the case may be, of Franchisee. Franchisee further agrees that it will cause the share certificates or other documents of ownership, to have typed or written thereon a legend stating that such shares or documents of title are subject to this Agreement and the restrictions on transfer or assignment contained herein.

14.4 Assignment to Controlled Entity. Franchisee may, at any time after providing CertaPro with thirty (30) days written notice, assign all of Franchisee's rights and obligations hereunder to a corporation or limited liability company, provided Franchisee is and throughout the term of this Agreement remains a principal executive officer of the entity and the beneficial and registered owner of not less than fifty-one (51%) percent of the issued and outstanding voting shares or interests of such entity, and Franchisee agrees forthwith to:

14.4.1 cause the corporation or limited liability company, and its directors, officers, shareholders and members to acknowledge this Agreement and to agree in writing to be bound by the provisions hereof and to execute such form of agreement as may be specified by CertaPro relating to the assumption by the corporation of any rights and obligations under this Agreement in the form attached as Schedule E;

14.4.2 cause the corporation or limited liability company in its articles of incorporation or certificate of formation to provide that its business objectives are confined exclusively to the operation of the CertaPro Business;

14.4.3 cause the corporation or limited liability company to restrict the issue of and its directors and shareholders to restrict the transfer of shares or interests of the corporation or limited liability company so that Franchisee shall continuously own fifty-one (51%) percent of the issued and outstanding voting shares or interests, and cause the corporation or limited liability company to keep CertaPro current as to the names and addresses of the directors, shareholders and members of and those persons financially involved in the corporation or limited liability company;

14.4.4 pay to CertaPro all reasonable legal expenses and other fees and charges incurred by CertaPro in connection with such assignment and the preparation, execution and filing of any of the documents referred to in this Section 14.4;

14.4.5 satisfy all accrued monetary obligations of Franchisee to CertaPro and any governmental authority, prior to assignment or transfer;

14.4.6 cause the transferee corporation or limited liability company and all shareholders or members of the transferee entity to enter into a written assignment and assumption of liability agreement under seal, in a form satisfactory to CertaPro, with Franchisee and the transferee entity, assuming all Franchisee's obligations hereunder;

14.4.7 cause all shareholders or members of the transferee corporation or limited liability company owning ten percent (10%) or more of the entity to enter into a written agreement, in a form satisfactory to CertaPro, jointly and severally guaranteeing the full payment and performance of the transferee entity's obligations to CertaPro;

14.4.8 ensure that no new shares of common or preferred voting stock or membership interests in the transferee corporation or limited liability company shall be issued to any person, persons, partnership, association or corporation without obtaining CertaPro's prior consent, which shall not be unreasonably withheld; and

14.4.9 cause each stock certificate of the transferee corporation to have conspicuously endorsed upon it a statement that it is held subject to, and that further assignment or transfer thereof is subject to, all restrictions imposed upon transfers by this Agreement.

14.5 Transfer of Assets. A sale or transfer of all or substantially all of the assets of Franchisee's CertaPro Business licensed hereunder shall be deemed an assignment or transfer and shall be subject to the provisions of this Article 14.

14.6 Assignment by CertaPro. CertaPro may at any time sell, transfer or assign its interests in and to this Agreement. In the event of such a sale, transfer or assignment by CertaPro of this Agreement or any interest therein, to the extent that the purchaser, transferee or assignee shall assume the covenants and obligations of CertaPro under this Agreement, CertaPro shall thereupon and without further agreement, be freed and relieved of all liability with respect to such covenants and obligations. The consent of Franchisee to such sale, transfer or assignment shall not be required and, notwithstanding any such sale, transfer or assignment, Franchisee shall continue to be fully bound by its obligations under this Agreement.

15 – DEATH OR PERMANENT DISABILITY

Upon the death or permanent disability of Franchisee or any person with any interest in this license or in Franchisee, or upon the dissolution of a Franchisee that is a partnership, corporation or limited liability company, the executor, administrator, personal representative or trustee of such person or entity ("Personal Representative") agrees to transfer Franchisee's interest to a third party approved by CertaPro within a reasonable time. Such transfers, including without limitation, transfers by devise or inheritance, shall be subject to the same conditions as any *inter vivos* transfer.

If, within six (6) months of the date of Franchisee's death or permanent disability, the Personal Representative has not transferred Franchisee's interest in the license granted hereunder, this Franchise Agreement shall be automatically terminated and all rights and licenses granted hereunder shall likewise be deemed terminated and shall all revert to CertaPro.

For purposes of this Agreement, Franchisee or any person with any interest in this license or in Franchisee, shall be deemed permanently disabled if, through *bona fide* illness, physical or mental, as certified by a duly qualified independent medical practitioner selected by CertaPro, shall become unable to devote his full time and attention during normal business hours to the

CertaPro Business for a period of 90 consecutive days in any period of 12 consecutive calendar months ("Period of Disability").

The Period of Disability shall be deemed to commence on the first day that Franchisee, or any person with any interest in this license or in Franchisee, does not attend to the business and affairs of the CertaPro Business, on a full-time basis, statutory holidays and vacation time excepted. In calculating the duration of the Period of Disability, unless and until Franchisee, or any person with any interest in this license or in Franchisee, shall have returned to attending to the business and affairs of the CertaPro Business on a full-time basis for 20 consecutive days, statutory holidays and vacations excepted, the Period of Disability shall be deemed to have continued without interruption.

16 – TERMINATION

16.1 Termination of Rights. Upon termination of this Agreement for any reason whatsoever or upon its expiration or non-renewal ("expiration"), all of the rights and licenses granted to Franchisee hereunder shall terminate.

16.2 CertaPro's Options

16.2.1 CertaPro's Option to Rescind. CertaPro may, before the completion of Franchisee's Initial Franchisee Training, in its sole and absolute discretion, rescind this Agreement and refund the Initial Franchise Fee to Franchisee. Upon rescission, all of the rights and licenses granted to Franchisee hereunder shall terminate. Notwithstanding, Franchisee acknowledges and agrees that he or she shall remain bound, even after rescission of this Agreement, to those obligations contained in Article 8 relating to confidentiality and non-disclosure.

16.2.2 CertaPro's Option to Terminate. If Franchisee has not commenced operation of the CertaPro Business licensed hereunder within 120 days of the Effective Date, CertaPro shall have the option to terminate this Agreement by giving Franchisee twenty (20) days written notice of its intention to terminate this Agreement and all licenses granted hereunder ("Termination Notice"). If Franchisee has not commenced operation of the CertaPro Business before the expiration of the twenty (20) day period specified in the Termination Notice, the rights and obligations of the parties hereunder shall immediately terminate. Upon such termination, the parties shall deliver to each other such releases and other instruments as CertaPro may reasonably require so as to fully terminate any and all agreements between the parties, whether written or verbal or expressed or implied. Upon receipt of such releases and other instruments, CertaPro agrees to refund to Franchisee $10,000 of the Initial Franchise Fee.

16.3 Termination by CertaPro With Opportunity to Cure. CertaPro shall have the right to terminate this Agreement and the rights granted hereunder; provided, however, that Articles 7, 8, 9 and 10, shall continue in full force and effect for the periods specified, without prejudice to the enforcement of any other legal right or remedy, if any of the following defaults remain uncured after expiration of the cure period:

16.3.1 if, Franchisee fails to make any payment under this Agreement or under any Promissory Note between Franchisee and CertaPro, when due, and such default shall continue for a period of ten (10) days after written notice has been given to Franchisee;

16.3.2 if Franchisee shall breach any of the terms or conditions of this Agreement or fail to observe or perform or comply with any of the rules, bulletins, directives or other notices issued by CertaPro or set forth in the Operations Manual and such breach or failure shall continue for a period of ten (10) days after written notice has been given to Franchisee:

16.3.3 if final judgment is rendered in an amount in excess of $10,000 by any court against either Franchisee or any guarantor of this Agreement and such judgment shall not be discharged, varied or execution thereof stayed within twenty (20) days after entry or within the earlier of such time period as action must be taken in order to discharge, vary or stay execution of the judgment;

16.3.4 if Franchisee or any agent or representative of Franchisee fails to submit any report required under this Agreement within ten (10) days of the date such report is due

16.4 Termination By CertaPro Without Opportunity to Cure. CertaPro may terminate this Agreement and all rights granted hereunder at any time, without a right or opportunity to cure, upon written notice of termination, in the event of any of the following:

16.4.1 three (3) incidents of any breach whether cured or not within any twelve (12) month period, for which CertaPro has provided notice and an opportunity to cure;

16.4.2 Franchisee's omission or misrepresentation of any material fact relevant to the decision of CertaPro to enter into this Agreement;

16.4.3 any transfer of the license granted hereunder which is not in compliance with Article 14 of this Agreement;

16.4.4 subject to the provisions of Article 15 hereof, if Franchisee, or, if Franchisee is a corporation or limited liability company, its controlling shareholder(s) or members, or any guarantor hereunder shall die or otherwise become permanently disabled;

16.4.5 If Franchisee or any guarantor of this Agreement makes or permits the making of any unauthorized copies of any portion of the Confidential Information, proprietary Materials or the Operations Manual;

16.4.6 if Franchisee fails to meet the Performance Criteria set forth in Section 6.1;

16.4.7 if Franchisee has committed, undertaken or otherwise been involved in fraudulent conduct in relation to its dealings with CertaPro; or

16.4.8 fraudulent reporting of financial or operational information to CertaPro;

16.4.9 if Franchisee is charged and convicted by a court having competent jurisdiction of committing an act of theft, fraud, or other offense involving moral turpitude, or any felony;

16.4.10 abandonment by Franchisee of the franchise operation, defined as failure to operate the CertaPro Business for fifteen (15) consecutive days after commencement of operations;

16.4.11 if Franchisee ceases or threatens to cease business, or takes or threatens to take any action to liquidate its assets, or stops making payments in the usual course of business;

16.4.12 if either Franchisee or any guarantor under this Agreement makes or attempts to make a general assignment for the benefit of creditors or a bulk sale of their assets, institutes or has instituted against either of them any proceeding relating to insolvency or bankruptcy, is or becomes insolvent, has a custodian, receiver or similar person appointed over all or part of Franchisee's business, or in the event any lessor, lien holder or other similar party lawfully entitled to do so, takes possession of any of the assets or property of Franchisee, or if Franchisee or guarantor under this Agreement commits or suffers any default under any contract or lease pertaining to the CertaPro Business;

16.4.13 if Franchisee or any guarantor under this Agreement is a corporation or limited liability entity, in the event a proceeding is instituted for the winding-up, dissolution, liquidation or merger of such entity, whether such proceeding is voluntary or involuntary, or in the event of a forfeiture or other loss of Franchisee's or guarantor's charter;

16.4.14 a violation of any of the in-term covenants not-to-compete or of the covenants of non-disclosure of trade secrets or Confidential Information set forth in this Agreement; or

16.4.15 if Franchisee materially distorts any material information pertaining to the CertaPro Business, or fails to maintain its records in a manner which permits a determination of Gross Sales, unless Franchisee proves to the satisfaction of CertaPro that it had no knowledge of such distortion;

16.4.16 if Franchisee performs Residential Services outside the Territory without appropriate authorization, either from the CertaPro franchisee in whose territory such Residential Services are performed or CertaPro;

16.4.17 other acts which may bring discredit on the entire franchise organization such as, but not limited to, willful acts of dishonesty toward CertaPro, property owners, insurers, and other third parties dealing with Franchisee, CertaPro or other CertaPro franchises;

16.5 Effect of Termination. Upon expiration or termination of this Agreement for any reason whatsoever, Franchisee shall:

16.5.1 immediately upon CertaPro's request, so as to protect the CertaPro Proprietary Marks and other proprietary rights and CertaPro's other franchisees, permit CertaPro to cure any default by Franchisee, to operate any vehicle or equipment for CertaPro's account and to secure Franchisee's complete and timely compliance with the other obligations set forth in this Section 16.5. Franchisee shall immediately reimburse CertaPro for all costs incurred by CertaPro in connection with CertaPro's action to cure any such defaults. Franchisee understands and agrees that any cure by CertaPro of Franchisee's breach of this Agreement will not, under any circumstances whatsoever, operate as a reinstatement of this Agreement.

16.5.2 within ten (10) days after such expiration or termination, pay to CertaPro all outstanding royalties, advertising fees and other charges due and payable by Franchisee to CertaPro;

16.5.3 immediately discontinue the operation of the CertaPro Business, the CertaPro System and the use of the CertaPro Proprietary Marks and other proprietary rights licensed under this Agreement, and any other similar names or marks, or any other designations or marks associating Franchisee with CertaPro or the CertaPro System and any conduct that might tend to give the general public the impression that it is associated with CertaPro or the CertaPro System;

16.5.4 promptly execute such instruments or take such actions as may be necessary to discontinue Franchisee's use of any fictitious business name containing any of the CertaPro Proprietary Marks and to remove Franchisee's listing as a CertaPro franchisee from any hard copy or electronic listing, as well as any telephone directories, trade or business directories in any medium;

16.5.5 within ten (10) days after such expiration or termination, return to CertaPro all copies of the Operations Manual as well as any and all other confidential or proprietary materials including, but not limited to, the Certa Notes and other software owned and developed by CertaPro and any copies thereof;

16.5.6 within ten (10) days after such expiration or termination, make available to CertaPro for inspection all vehicles and equipment for the purpose of allowing CertaPro to confirm the removal of all identification with respect to the CertaPro System and the CertaPro Proprietary Marks;

16.5.7 within ten (10) days after such expiration or termination, take all actions and execute all instruments that may be necessary to assign all telephone numbers and listings used in connection with the CertaPro Business to CertaPro or any other party designated by CertaPro, or, at CertaPro's option, to cancel all such telephone numbers or listings; and

16.5.8 fulfill all of its obligations to customers under all outstanding contracts and any warranties provided pursuant to Section 6.7 of this Agreement notwithstanding the expiration or termination of this Agreement. In order to ensure that Franchisee honors these obligations, within fourteen (14) days after such expiration or termination, Franchisee agrees to pay to CertaPro the greater of: (i) 2% or Franchisee's total Gross Sales for the preceding 24 months, or portion thereof, or (ii) $15,000. CertaPro shall return such monies, less any amount expended to satisfy Franchisee's outstanding obligations, upon CertaPro's satisfaction that Franchisee has satisfied all of its obligations pursuant to this Section.

16.6 Additional Remedies. Franchisee expressly consents and agrees that, in addition to any other remedies CertaPro may have at law, CertaPro may obtain an injunction and/or appointment of a receiver of the CertaPro Business to terminate or prevent the continuation of any existing default, or to prevent the occurrence of any threatened default by Franchisee of this Agreement.

16.7 Survival of Covenants. Notwithstanding the expiration or termination of this Agreement for any reason whatsoever, all covenants and agreements to be performed or observed by Franchisee or any guarantor under this Agreement or which by their nature survive the expiration or termination of this Agreement, including those in Articles 7, 8, 9 and 10, shall survive any such expiration or termination.

16.8 Failure to Act Not to Affect Rights. CertaPro's failure to exercise any rights or remedies to which it is entitled to under this Article 16 shall not constitute a waiver of, or otherwise serve to prevent CertaPro from exercising any other rights or remedies to which it may be entitled either under Article 16 or elsewhere in this Agreement. The acceptance by CertaPro of any amount under this Agreement after the happening of any event provided for in either Section 16.3 or 16.4 above, shall not under any circumstance constitute a waiver by CertaPro of any rights or remedies to which it may be entitled. No waiver of the happening of any event under either Section 16.3 or 16.4 above on any one occasion shall be deemed to be a waiver by CertaPro of any subsequent happening of any such event. All monies received by CertaPro from

Franchisee or any guarantor hereunder may be applied to their respective indebtedness to CertaPro as CertaPro, in its sole discretion, may choose.

ARTICLE 17 – SECURITY TO FRANCHISOR

17.1 Security Agreement. Franchisee agrees, so as to secure payment and performance of any and all obligations from time to time owing by Franchisee to CertaPro, to provide, at the request of CertaPro, a security interest or interests by a security agreement in the form attached hereto as Schedule F, in such form as is provided by CertaPro, in such of the inventory, equipment, and other assets of the CertaPro Business and in such amount or amounts and upon such terms as CertaPro, in its absolute discretion, shall require. Any failure to provide such security within ten (10) days following the receipt by Franchisee of a written request specifying the nature and extent of the security required, shall be deemed to be a material default under this Agreement.

17.2 Other Agreements. Franchisee agrees to execute or cause to be executed such other guaranties or instruments as CertaPro may reasonably require from time to time to secure the payment and performance of any and all obligations from time to time owing by Franchisee to CertaPro including a personal guaranty in the form attached hereto as Exhibit G.

ARTICLE 18 – DISPUTE RESOLUTION

18.1 Mediation.

18.1.1 Subject to Section 18.1.2, all claims or disputes between Franchisee and CertaPro or its affiliates arising out of, or in any way relating to, this Agreement, or any of the parties' respective rights and obligations arising out of this Agreement, shall be submitted first to mediation before CertaPro's president at CertaPro's headquarters in Pennsylvania. Prior to the Mediation and before commencing any legal action against CertaPro or its affiliates with respect to any such claim or dispute, Franchisee must submit a notice to CertaPro, which specifies in detail, the precise nature and grounds of such claim or dispute.

18.1.2 CertaPro shall not be required to first attempt to mediate a controversy, dispute or claim against Franchisee through mediation as set forth in section 18.1.1 if such controversy, dispute or claim concerns an allegation by CertaPro that Franchisee has violated, or threatens to violate, or poses an imminent risk of violating:

(a) any of CertaPro's intellectual property rights in the CertaPro Proprietary Marks, the CertaPro System or in any of CertaPro's Confidential Information;

(b) any claims pertaining to or arising out of or pertaining to any warranty issued; or

(c) any of the restrictive covenants contained in this Agreement

18.2 Arbitration. If not resolved by mediation, all disputes and claims relating to this Agreement or any other agreement entered into between the parties, the rights and obligations of the parties, or any other claims or causes of action relating to the making, interpretation, or performance of either party under this Agreement, shall be settled by arbitration in Philadelphia, Pennsylvania in accordance with the Federal Arbitration Act and the Commercial Arbitration Rules of the American Arbitration Association ("AAA"). The right and duty of the parties to this Agreement to resolve any disputes by arbitration shall be governed by the Federal Arbitration Act, as amended. The following shall supplement and, in the event of a conflict, shall govern any arbitration: If the claim, or a counterclaim, is for $30,000 or more, the matter shall be heard before a panel of three (3) arbitrators and each party shall appoint its own arbitrator, and the appointed arbitrators shall appoint a "neutral" arbitrator from the AAA's list of arbitrators. Each party must bear its own costs of arbitration including the fee for their respective arbitrator; provided, however, that the neutral or the single arbitrator's fee shall be shared equally by CertaPro and Franchisee.

Whether the matter is heard by a single arbitrator or three, the arbitrator's award shall be rendered within 7 days of the close of the hearing and shall include all fees, costs and attorneys' fees. The arbitrators shall have no authority to determine class action claims and shall have no authority to amend or modify the terms of the Agreement. To the extent permitted by applicable law, no issue of fact or law shall be given preclusive or collateral estoppel effect in any arbitration, except to the extent such issue may have been determined in another proceeding between the parties. Judgment upon the award of the arbitrator shall be submitted for confirmation to the United States District for the Eastern District of Pennsylvania and, if confirmed, may be subsequently entered in any court having competent jurisdiction. This agreement to arbitrate shall survive any termination or expiration of this Agreement.

18.2.1 Notwithstanding anything to the contrary in this Agreement, CertaPro shall not be required to arbitrate the following disputes or claims against Franchisee:

1. a collection action not in excess of $15,000;

2. injunctive claims pursuant to Section 18.4; and

3. claims that may be asserted by CertaPro against Franchisee in any action to which a third party, i.e. not a party to this Agreement or a guarantor of a party's obligations under this Agreement, is a party litigant.

18.3 Third Party Beneficiaries. CertaPro's officers, directors, shareholders, affiliates, agents and/or employees are express third party beneficiaries of this Agreement and the mediation and arbitration provisions contained herein, each having authority to specifically enforce the right to mediate and arbitrate claims asserted against such person(s) by Franchisee.

18.4 Injunctive Relief. Nothing contained in this Agreement herein shall prevent CertaPro from applying to or obtaining from any court having jurisdiction, without bond, a writ of attachment, temporary injunction, preliminary injunction and/or other emergency relief available to safeguard and protect CertaPro's interest prior to the filing of any arbitration proceeding or pending the trial or handing down of a decision or award pursuant to any arbitration proceeding conducted under this Agreement.

18.5 Jurisdiction and Venue. With respect to any proceeding not subject to arbitration, the parties agree that any action at law or in equity instituted against either party to this Agreement shall be commenced only in the Pennsylvania Court of Common Pleas for Montgomery County, Pennsylvania or the United States District Court for the Eastern District of Pennsylvania.

18.6 Jury Trial Waiver. With respect to any proceeding not subject to arbitration, the parties hereby agree to waive trial by jury in any action, proceeding or counterclaim, whether at law or equity or between the parties hereto which arises out of or is related in any way to this Agreement, the performance of either party, and/or Franchisee's purchase from CertaPro of the franchise and/or any goods or services.

18.7 Waiver of Punitive Damages. Franchisee waives to the fullest extent permitted by law, any right to or claim for any punitive, exemplary, incidental, indirect, special or consequential damages, whatsoever, whether such cause be based in contract, negligence, strict liability, other tort or otherwise, and agrees that in the event of a dispute, its recovery shall be limited to actual damages. If any other term of this Agreement is found or determined to be unconscionable or unenforceable for any reason, the foregoing provisions shall continue in full force and effect, including, without limitation, the waiver of any right to claim any consequential damages.

18.8 Class Action Waiver. The parties agree that all proceedings will be conducted on an individual, not a class-wide basis, and that any proceeding between Franchisee and Franchisor or its affiliates or employees, whether through mediation, arbitration or litigation, may not be consolidated with any other proceeding between Franchisor and any other person or entity.

18.9 Attorneys' Fees. If either party institutes any judicial or arbitration proceeding to enforce any monetary or non-monetary obligations or to interpret the terms of this Agreement, the prevailing party shall, upon final judgment, be entitled to recover all costs, including reasonable attorneys' fees, incurred with such proceeding.

Article 19 – GENERAL PROVISIONS

19.1 Gender, Number and Person. Throughout this Agreement, the use of the singular number shall include the plural and vice versa, the use of gender shall include the masculine, feminine and neuter genders and the word "person" shall include an individual, a trust, a partnership, a body corporate or politic, an association or other incorporated or unincorporated organization.

19.2 Overdue Amounts. All royalty and advertising contributions and amounts due for goods or supplies or otherwise from Franchisee to CertaPro or its affiliates pursuant to this Agreement or otherwise shall bear interest after the due date at the rate of the lesser of one and one-half percent per month (18% per annum) or at the maximum rate permitted by law. The acceptance of any interest payment shall not be construed as a waiver by CertaPro of its rights in respect of the default giving rise to such payment and shall be without prejudice to CertaPro's right to terminate this Agreement for such default.

19.3 Indemnification of CertaPro. Franchisee hereby agrees, during and after the Term of this Agreement, to defend, indemnify and hold CertaPro and its officers, directors, parents, affiliates, shareholders, employees, attorneys, and agents ("Indemnified Parties") harmless from any and all liabilities, losses, suits, claims, demands, costs, fines and actions of any kind or nature whatsoever to which any of the Indemnified Parties shall or may become liable for, or suffer by reason of any breach, violation or non-performance on the part of Franchisee or any of its agents, servants, employees or subcontractors of any term or condition of this Agreement and from all claims, damages, suits, costs or rights of any persons, firms or corporations arising directly or indirectly from, as a result of, or in connection with the operation of the CertaPro Business.

19.4 No Liability. CertaPro is not responsible or otherwise liable for any injury, loss, or damage resulting from, occasioned to, or suffered by any person or persons or to any property because of any services provided or products sold by it to Franchisee.

19.5 Joint and Several. If two or more individuals or entities, or any combination thereof, shall sign or be subject to the terms and conditions of this Agreement as Franchisee or as a guarantor, the liability of each of them under this Agreement shall be deemed to be joint and several.

19.6 Severability. If, for any reason whatsoever, any term or condition of this Agreement or the application thereof shall be held to be invalid or unenforceable, then all other terms and conditions of this Agreement and the application of such terms and conditions shall not be affected thereby and each term and condition of this Agreement shall be separately valid and enforceable to the fullest extent permitted by law.

19.7 Franchisee May Not Withhold Payments Due CertaPro. Franchisee agrees not to, on grounds of the alleged non-performance by CertaPro of any of its obligations hereunder, withhold payment of any royalty or other amounts due to CertaPro or its affiliates, or under this Agreement, whether on account of goods purchased by Franchisee or otherwise.

19.8 Notice. All notices, approvals or other communications (collectively, "Notices") required or permitted to be given under this Agreement shall be in writing, and shall be deemed duly given when delivered by hand or mailed by certified mail, return receipt requested, postage prepaid, or by recognized overnight carrier that provides a receipt to the parties at their respective addresses set forth below or to such other party or parties at such address or addresses as may be given by either party to the other in writing from time to time. Such Notices, if mailed shall be deemed to have been given on the second business day, except Saturdays and Sundays, following such mailing, or, if delivered in hand, shall be deemed to have been given on the day of delivery, if a business day, or if not a business day, on the business day next following the day of delivery or on day of delivery if sent by a recognized overnight carrier providing a receipt.

19.9 Headings, Article Numbers. The headings, article numbers and table of contents, if any, appearing in this Agreement or any schedule hereto are for reference only and shall not in any way affect the construction or interpretation of this Agreement.

19.10 Governing Law; Jurisdiction. This Agreement shall be deemed to have been written, approved and accepted in the Commonwealth of Pennsylvania, and the construction and interpretation of this Agreement, wherever executed and wherever to be performed, shall be governed by the laws of the Commonwealth of Pennsylvania.

19.11 Time of the Essence. Time shall be of the essence of this Agreement and of each and every part hereof.

19.12 Waiver of Obligations. CertaPro may, by written instrument, unilaterally waive any obligation of or restriction upon Franchisee under this Agreement. No acceptance by CertaPro of any payment by Franchisee and no failure, refusal or neglect of CertaPro to exercise any right under this Agreement or to insist upon full compliance by Franchisee with its obligations under this Agreement, including without limitation, any mandatory specification, standard or operating procedure, shall constitute a waiver of any provision of this Agreement.

19.13 Cross-Default. In the event that Franchisee acquires the right and franchise to operate another CertaPro's Business pursuant to a written agreement or enters into any other agreement with CertaPro then, any default by Franchisee in the performance or observance of any of the terms and conditions under any one agreement with CertaPro including this Agreement shall be deemed to be an event of default under all other agreements between Franchisee and CertaPro including this Agreement.

19.14 Set-Off by CertaPro. Notwithstanding anything contained in this Agreement, upon Franchisee's failure to pay to CertaPro any amounts provided for herein when due, CertaPro shall have the right to deduct any and all such amounts remaining unpaid from any monies or credits held by CertaPro for the account of Franchisee.

19.15 Further Assurances. The parties hereto agree to execute and deliver such further and other agreements or documents, to cause such meetings to be held, resolutions passed and by-laws enacted, and to exercise their vote and influence and do and cause to be done any further and other acts and things as may be necessary in order to give full effect to this Agreement and every part hereof.

19.16 Binding Agreement. Subject to this Agreement's restrictions on assignment, this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns.

19.17 When Agreement Binding on CertaPro. This Agreement is not effective until signed by an authorized corporate officer of CertaPro.

19.18 Rights of CertaPro are Cumulative. The rights of CertaPro under this Agreement are cumulative and no exercise or enforcement by CertaPro of any right or remedy under this Agreement shall preclude the exercise or enforcement by CertaPro of any other right or remedy under this Agreement or to which CertaPro is otherwise entitled by law to enforce.

19.19 Force Majeure. In the event that any party is delayed in the performance of any act required by this Agreement by reason of labor disputes, inability to procure materials, power failures, restrictive governmental laws or regulations, riots, insurrection, war or other reasons of a like nature not the fault of such party, the performance of such act and the time for performance shall be extended for a period equivalent to the period of such delay, up to a maximum of three (3) months. The provisions of this Article 19 shall not operate to excuse Franchisee from the prompt payment of any amount due CertaPro under this Agreement.

19.20 Entire Agreement. This Agreement and the documents incorporated herein by reference constitute the entire agreement between the parties and supersede all previous agreements and understandings between the parties in any way relating to the subject matter of this Agreement; provided however, nothing herein is intended to disclaim the representations made in the Franchise Disclosure Document provided to Franchisee.

ARTICLE 20 – ACKNOWLEDGMENTS

20.1 Independent Investigation.

20.1.1 Franchisee and any guarantor acknowledge that they have conducted an independent investigation of the CertaPro Business and recognize that the business venture contemplated by this Agreement involves business risks and that its success will be largely dependent upon the ability of Franchisee as an independent business person. CertaPro expressly disclaims the making of and Franchisee and any guarantor acknowledge that they have not received any warranty or guarantee, expressed or implied, as to the potential volume, profit, cash flow or success of the CertaPro Business. The provisions of this Subsection 20.1.1 do not apply and are not effective in the State of Illinois.

20.1.2 Franchisee and any guarantor acknowledge that they have received, have had ample time to read and have read this Agreement and fully understand its provisions.

Franchisee and any guarantor further acknowledge that they have had an adequate opportunity to be advised by legal counsel and accounting professionals of their own choosing regarding all pertinent aspects of this franchise, the purchase of the CertaPro Business and the franchise relationship.

20.2 Independent Contractor

20.2.1 The parties agree and acknowledge that for all purposes under this Agreement or otherwise, that Franchisee is an independent contractor and is in no way authorized to make any contract, agreement, warranty, or representation, or to create any obligation, express or implied, on behalf of CertaPro. Franchisee agrees to prominently display as part of its Business in any medium or statement that the business is independently owned and operated by Franchisee as a franchisee of CertaPro, and not as CertaPro's agent.

20.2.2 Under no circumstances shall CertaPro be liable for any act, omission, debt or any other obligation of Franchisee. Franchisee agrees to defend, indemnify and hold CertaPro harmless as set forth in Section 19.3 above.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the 16 day of August, 2013.

CERTA PROPAINTERS, LTD

By: ______________________
Its Authorized Officer

Address: 150 Green Tree Road
Suite 1003
P.O. Box 836
Oaks, PA 19456

FRANCHISEE

By: ______________________
Jonathan A. Kish
2135 Kimberwicke Circle
Oviedo, FL 32765

SCHEDULE A

Territory.

The Franchisee's territory is as follows:

Winter Park, FL***32707, 32708, 32765, 32789, 32792, 32817, 32826***

~~See zip code purchase agreement & modification to franchise agreement which adds 32828.~~ JU @ 8/16/13

Authorized Telephone Numbers.

The Franchisee is authorized to publish the following telephone numbers used in connection with the Franchised Business:

1-800-462-3782